

PUBLIC HEARING

before

ASSEMBLY BANKING AND INSURANCE COMMITTEE

on

State Department of Insurance procedures and practices in reviewing and approving automobile insurance rate filings, and disseminating information to the Legislature and the public

(Pursuant to Assembly Resolution 3026)

Held:  
May 4, 1983  
Assembly Chamber  
State House  
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Michael F. Adubato, Chairman  
Assemblyman Eugene H. Thompson, Vice Chairman  
Assemblyman Louis F. Kosco

ALSO PRESENT:

Spiros J. Caramalis, Senior Research Specialist  
Office of Legislative Services  
Aide, Assembly Banking and Insurance Committee

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**ASSEMBLYMAN MICHAEL F. ADUBATO (CHAIRMAN):** Good morning, ladies and gentlemen. I would like to proceed as we did yesterday by saluting the flag. Would you please all rise and join with us. (audience salutes flag).

If Commissioner Murphy would please come up to the microphone, we would appreciate it. Good morning, Commissioner.

**COMMISSIONER JOSEPH F. MURPHY:** Good morning.

**ASSEMBLYMAN ADUBATO:** Thank you for attending the meeting. I promise that we will keep our commitment to conclude with your presence being necessary here, sir, no later than twelve o'clock.

**COMMISSIONER MURPHY:** Thank you.

**ASSEMBLYMAN ADUBATO:** And, we will do our best to make it before that. Commissioner, yesterday, to try to get a perception of what is happening-- Before we get into the public hearing, I do have a question. I am a little curious that I saw a press release yesterday issued by your Department about the hearing. I was just wondering if you knew when that press release was written. I'm sorry; I apologize, sir. It was not yesterday, I was corrected by staff. I'm talking about Monday's hearing. After Monday's hearing, I got an official copy of a press release here that was issued by your Department, and I will rephrase the question. Could you tell me when that press release was written?

**COMMISSIONER MURPHY:** I assume that is the press release which is based upon the statement I submitted to your Committee. May I refresh myself by looking at that press release?

**ASSEMBLYMAN ADUBATO:** Yes, sir, absolutely. Does Mr. Hooper have a copy of that statement with him? Maybe he can help you. I think he wrote it.

**COMMISSIONER MURPHY:** Tom, do you remember when we wrote that press release?

**MR. HOOPER:** Friday, I think.

**COMMISSIONER MURPHY:** Friday.

**ASSEMBLYMAN ADUBATO:** Okay, so the press release on Monday's hearing was written on Friday dealing with your comments, your statement?

**COMMISSIONER MURPHY:** Do you have a copy of it? Tom, do you have one? Actually, I assume it was based on my statement. That is my recollection of it. If you let me see it, I can tell better.

**ASSEMBLYMAN ADUBATO:** Certainly, sir. (witness unable to locate copy of press release) Well, that's all right. When Tom finds it, we will get back to it, rather than get hung up by that. But, we would appreciate it, Mr. Hooper, if sometime during the course of the day you would provide the Commissioner with a copy of that press release, hopefully before twelve o'clock.

Getting back to the substance of yesterday's hearing, we left off--

**COMMISSIONER MURPHY:** You mean Monday's hearing.

**ASSEMBLYMAN ADUBATO:** Thank you for the correction, Mr. Commissioner. It seems like I never leave here. Even when I'm sleeping, I'm still here. However, after Monday's hearing, we left off, sir, discussing the \$1,500 threshold, and discussing an article that appeared in a magazine -- in an interview granted by you to a magazine called New Jersey Success, in an article written by a young lady named Lisa Guide. In that article, I pointed out to you, Commissioner, that you were quoted as saying that if the \$1,500 threshold could be used as an example of the growth of the CPI as it relates to how it started at \$200 today, your support for the \$1,500 threshold, more or less, could be based on the fact that if we used the CPI when we implemented the \$200 threshold according to this quote, in this magazine, you said it would be \$1,500.

Now, when you were asked that, you said "no," that was not what you said. You said that you had added some things that the reporter did not put in the article.

COMMISSIONER MURPHY: That is correct.

ASSEMBLYMAN ADUBATO: However, the reporter insists until this day-- I don't want to debate that, because, certainly, we are all human beings, and she could be wrong, or you could be wrong. I don't think that is important. What is important, is that you said that that is not the case with the CPI, that you meant, you originally said, you were talking about the health, medical and physical portion of the CPI, and you repeated that, according to the tapes, three times.

COMMISSIONER MURPHY: Yes, I think we corrected it toward the end.

ASSEMBLYMAN ADUBATO: I corrected it, I think.

COMMISSIONER MURPHY: You were correct.

ASSEMBLYMAN ADUBATO: I think I challenge you on that, sir.

COMMISSIONER MURPHY: You were correct. Physical damage did not apply to it.

ASSEMBLYMAN ADUBATO: Well, I am just stating facts.

COMMISSIONER MURPHY: I agree.

ASSEMBLYMAN ADUBATO: Thank you, sir. So, the Commissioner, after saying that the physical damage portion of the premium was involved, agreed that he was wrong--

COMMISSIONER MURPHY: (interrupting) I did not agree that I was wrong; I agreed that I misspoke. What is involved here, Mr. Chairman, and we went through it a number of times, and I will restate it-- In any discussions I have had about this threshold, and relating it to the Cost of Living Index, I have normally stipulated that we are referring to the medical and hospital cost components of the Index and, if I mentioned physical damage, I misspoke myself. We corrected that record.

ASSEMBLYMAN ADUBATO: I'm sorry, sir. You said, "If I mentioned physical damage." Do you admit that you--

COMMISSIONER MURPHY: Of course, I did. This is really getting to be a point where it--

ASSEMBLYMAN ADUBATO: I am just doing this for the record, sir.

COMMISSIONER MURPHY: Let's get on to some substantial matters, if you don't mind, Mr. Chairman.

ASSEMBLYMAN ADUBATO: Commissioner Murphy, I'm sorry that you made these honest errors, and I don't mean to be pushy. If anything this Chair has said is not the truth or the facts as they happened, I would be happy to listen.

COMMISSIONER MURPHY: The record will speak for itself.

ASSEMBLYMAN ADUBATO: It does that, sir. Thank you. Moving along, why do you support a \$1,500 threshold, and where did that number come from? What scientific data did you use to come up with a \$1,500 threshold?

COMMISSIONER MURPHY: I support a \$1,500 threshold as evidenced in A-1747 because I expect it will return substantial economies to cut down the cost of our overly expensive automobile reparation system. That is why I am supporting it. As I said in my statement, I cannot quantify exactly the savings that can be realized. We are prepared this morning to offer some evidence with respect to the potential savings of the \$1,500 index threshold, as more fully set out in A-1747. We will do that directly.

Now, you say, why did I pick \$1,500?

ASSEMBLYMAN ADUBATO: Well, I don't think you picked it; I think the sponsor picked it.

COMMISSIONER MURPHY: Well, that's right.

ASSEMBLYMAN ADUBATO: I didn't know you were an Assemblyman.

COMMISSIONER MURPHY: Well, I'm not. You asked me why it was picked--

ASSEMBLYMAN ADUBATO: No, no, sir. I asked you, "Why are you supporting it?" sir.

COMMISSIONER MURPHY: Well, I've answered that question, because we feel that this will--

ASSEMBLYMAN ADUBATO: Sir, excuse me, I heard your answer. May I continue?

COMMISSIONER MURPHY: Sure.

ASSEMBLYMAN ADUBATO: The sponsor's statement -- the sponsor is an elected official of this State by the name of Dean Gallo -- said, "There is nothing special about it." He conceded he "could have made it a thousand, or two thousand, or any amount." He said he "arrived at \$1,500 as a realistic and fair amount for a compromise," as reported on April 24, 1983 in the Asbury Park Press. Now, that is the sponsor's statement. This Committee is interested in your ideas about what a \$1,500 threshold will do, or will not do, and we would ask you to put them in writing. We do not have time right now to go through all that. But, we will respectfully ask you to submit a written statement, if you have one, as you were asked to prepare when you came here, sir.

COMMISSIONER MURPHY: I did prepare a statement, sir, and if you will read it you will see what it said.

ASSEMBLYMAN ADUBATO: Oh, I know what your written statement says here.

COMMISSIONER MURPHY: Yes, sir, and I am prepared this morning, as I stated before, to have one of our expert witnesses get on here and give you an opinion.

ASSEMBLYMAN ADUBATO: Terrific. Would you please bring him forward? We'll take the time.

COMMISSIONER MURPHY: Fine.

ASSEMBLYMAN ADUBATO: Maybe we'll stay here until five, instead of twelve.

COMMISSIONER MURPHY: Fine, we will.

ASSEMBLYMAN ADUBATO: That's great; I'm glad to hear that. Would you please bring your witness forward, sir?

COMMISSIONER MURPHY: Do you want to do it now?

ASSEMBLYMAN ADUBATO: Absolutely, this moment. (Commissioner Murphy calls up a member of his staff) Would you please identify yourself, sir?

**WARREN COOPER:** My name is Warren Cooper; I am Chief Actuary of Property and Liability for the Insurance Department of the State of New Jersey.

ASSEMBLYMAN ADUBATO: Mr. Cooper, before you make your statement, since we have the opportunity of your expertise here this morning, I wonder if you would mind helping us on this Committee? If the CPI were adjusted in the threshold of \$200 when it was implemented in 1973, passed in 1972, what would that threshold be today?

MR. COOPER: I cannot render an opinion on that, since I do not have the figures in front of me, nor am I acquainted directly with those figures.

ASSEMBLYMAN ADUBATO: You do not know what the CPI--

MR. COOPER: (interrupting) I do not have it memorized, no.

ASSEMBLYMAN ADUBATO: Well, can you tell me where the Commissioner got his figures from? Are you not the Chief Actuary for the State of New Jersey, and do you not report to the Commissioner of Insurance on actuarial data and expertise?

MR. COOPER: I do.

ASSEMBLYMAN ADUBATO: All right. Do you have any knowledge of where the Commissioner got his facts from?

MR. COOPER: I do not.

ASSEMBLYMAN ADUBATO: Did you give him those facts?

MR. COOPER: No, sir, I did not.

ASSEMBLYMAN ADUBATO: Commissioner, would you tell us where you got your facts from, please?

COMMISSIONER MURPHY: You know, I mentioned before that I would like to get on to something substantial. What you apparently are talking about is a reference made in a magazine, in which I said that if we had used the medical-- My recollection of what I said is, if we used the medical and hospital components of the CPI, that \$200 would be almost \$1,500 today. If I said that, that is generally what I intended to say.

Now, I don't really see the bearing of this on our subject. I wasn't using that for any probative value. I support the \$1,500 threshold independently of that.

ASSEMBLYMAN ADUBATO: Commissioner, will you allow this Committee to hold its public hearing in the process we determine and not you, please?

COMMISSIONER MURPHY: Certainly.

ASSEMBLYMAN ADUBATO: I think we are asking you a fair question, and you as a public servant have an obligation.

COMMISSIONER MURPHY: I've answered the question.

ASSEMBLYMAN ADUBATO: I will repeat it again, sir. Where did you get your data?

COMMISSIONER MURPHY: I have no data.

ASSEMBLYMAN ADUBATO: You have no data?

COMMISSIONER MURPHY: I just made a projection in conversation, but this doesn't really bear on what we are talking about today.

ASSEMBLYMAN ADUBATO: Excuse me, does any Assemblyman have a question about what the Commissioner just said? Assemblyman Kosco, do you have any questions about where the Commissioner gets his data from?

ASSEMBLYMAN KOSCO: I think he answered; he said he does not have any data on that particular issue.

ASSEMBLYMAN ADUBATO: Are you willing to accept the fact that the Commissioner has the instant wisdom to throw out a figure of \$1,500 and not have the responsibility to support it -- without any factual data?

ASSEMBLYMAN KOSCO: You're asking me the question, do I accept that?

ASSEMBLYMAN ADUBATO: Yes, sir, I'm asking you a question.

ASSEMBLYMAN KOSCO: I would say, from the standpoint of a person in my own field, if someone asked me a question off the top of his head, and asked me to make an opinion on it, and I give the opinion, that is my opinion as a knowledgeable person rather than what you would call an expert -- a knowledgeable person -- and I would accept that that is the context in which the Commissioner gave the answer to that question when asked it. I do not know the reason why the actuary wouldn't have substantial information to back up a \$1,500 or a \$500 or a \$2,000 threshold. That should be something that would be in the realm of -- should have been handled through the actuary's office. But, I have no objection to the Commissioner making a statement that he believes is correct, based on his knowledge of the industry.

ASSEMBLYMAN ADUBATO: You know, this is a public forum, and I cannot accept the fact that a person who is charged with the responsibility, among other things, of protecting the people's interest, would have the audacity to make a statement that he has no facts to support what he has done. His Chief Actuary admits that he did not give him that information. The Chief Actuary admits that he doesn't know; he has never taken the time

to study it. I think it is sad, very, very sad, for the people, for the seven and a half million people of this State. Really, Assemblyman Kosco, it should not make me angry, it is too blatantly wrong for me to be angry. I'm sad; I'm very, very sad.

Commissioner, I have no questions of you. You are allowed to sit there. You are allowed to make any statement you want. You are allowed to discuss anything you want, but this Chair refuses to accept your response as being responsible. But, I will listen to anything you have to say.

COMMISSIONER MURPHY: Well, to put this matter to rest, what you are talking about is an offhand estimate I made in connection with an interview in a magazine. The number I took was \$1,500, and I said that basically the \$200, if it were adjusted over the years on the basis of the medical/hospital cost components of the CPI, would probably approximate \$1,500. Whether that statement is right or wrong, I submit it really has no relevance to whether \$1,500 is going to have a substantial savings impact on the motorists of the State of New Jersey. Now, why the focus on this kind of nonsense, as I must put it, sir-- I can think of nothing else but a red herring. You do not want to get to the substance of this matter; you want to talk about periphery, which really is incidental, and that is all I have to say.

ASSEMBLYMAN ADUBATO: Mr. Cooper, would you like to say anything? We'll listen to anything you have to say, sir.

MR. COOPER: Do you want the projections we have on the \$1,500 threshold?

ASSEMBLYMAN ADUBATO: Sir, the one thing that was stated here today was that the facts speak for themselves. I think that this hearing was called to gather information. When the Commissioner of Insurance refuses to give that information, when he issues a press release on a hearing that did not take place and writes it two days before the hearing begins-- Those things speak for themselves. When we have a change that is going to increase the rates for senior citizens, and the Commissioner admits knowing about it -- he admits knowing about it -- and arrogantly sits there and says that he has done his job and, in spite of that statement, there is not one shred of documentation, that one press release, one interview--

COMMISSIONER MURPHY: Mr. Chairman, if you are going to testify, I think you ought to come down here.

ASSEMBLYMAN ADUBATO: Forgive me, sir,--

COMMISSIONER MURPHY: (interrupting) You're testifying.

ASSEMBLYMAN ADUBATO: Sir, I am reviewing my evidence that you have produced.

COMMISSIONER MURPHY: You're testifying.

ASSEMBLYMAN ADUBATO: Mr. Commissioner, I will accept your rudeness, as it speaks for itself.

ASSEMBLYMAN KOSCO: Mr. Chairman, may I ask a question to try to put something into perspective?

ASSEMBLYMAN ADUBATO: Surely, Assemblyman.

ASSEMBLYMAN KOSCO: I think that the purpose of having this hearing was to try to accomplish something, rather than to try to get two people angry with each other who are supposed to be working together.

ASSEMBLYMAN ADUBATO: I am not angry; I'm sad. It is too sad to be angry, and I have to laugh; otherwise, I'll cry.

ASSEMBLYMAN KOSCO: I think the purpose of this hearing is to try to get two people to work in concert who are supposed to work in concert, and this Committee, which is the Insurance Committee, to work in concert with the Insurance Commissioner, and that is what I think we are trying to do. I would like to ask a question.

ASSEMBLYMAN ADUBATO: Forgive me for interrupting you, Assemblyman -- hold it. Hold it. I'm still running this meeting.

ASSEMBLYMAN KOSCO: Well, I want to ask a question.

ASSEMBLYMAN ADUBATO: Hold it; I said hold it. Assemblyman Kosco, am I to take that statement to mean that you are satisfied with the Commissioner's response to the question of where he got his factual data?

ASSEMBLYMAN KOSCO: No.

ASSEMBLYMAN ADUBATO: Did you say no, you are not satisfied with his answer?

ASSEMBLYMAN KOSCO: I am not satisfied with his answer.

ASSEMBLYMAN ADUBATO: Thank you, sir. We will continue; you have the floor.

ASSEMBLYMAN KOSCO: That is why I wanted to ask a question, because I want to get some answers. That's the reason I'm spending these days of my life here, to try to get some answers. My question is -- and my question will be to our Chief Actuary, rather than to the Commissioner -- if we go to a \$1,500 threshold, what positive effect, or negative effect, will that have on the premiums that the people of the State of New Jersey pay for insurance? The purpose of this hearing is to find out what we can do to lower the insurance costs to the people of this State, at the same time providing them with the protection that they need, and that we say they have to have.

Now, if we pass a bill-- We're talking about passing laws. If we pass a law that says the threshold becomes \$1,500, will that drop my insurance rate down \$5.00, \$10.00, \$20.00 or no dollars, or cost me more money?

MR. COOPER: We have made some very rough projections, and they are subject to all the caveats that such projections have.

ASSEMBLYMAN KOSCO: What do you mean by "rough projections?" We have been discussing this for five years, and there should be more than just rough projections.

MR. COOPER: Well, first of all, Assemblyman, we must take into consideration that we in the Insurance Department do not have the kind of data which is necessary to make all of these projections ourselves. We get aggregate data from the statistical agents that represent the companies on our behalf. We do not get individual case estimates, which is what is really necessary in order to see what the affect of a \$1,500 threshold, or any threshold, would be. However, we have been given--

ASSEMBLYMAN KOSCO: (interrupting) Excuse me. What data did you use to come up with the number that the average driver's rate would increase \$6.00? We had discussed previously that the rate was going to-- I think \$6.00 was the average rate increase as a result of the legislation that was passed. Couldn't that same data be used to find out what would happen with the \$1,500 threshold?

MR. COOPER: No, the data that was used to key that figure was an answer to a very specific question. That question was, for the record, "what would the affect be on uncapped territories given no other changes, if those cappings were put into existence?" The figures there were aggregate data, again, that we used. We did not use individual cases. However, we have discussed the matter with industry representatives who do have the individual data that we need, and we have been given estimates that the savings in the bodily injury claim costs, with a \$1,500 redefined threshold-- Redefinition is an extremely important thing to bear in mind. The soft tissue language is not changed. There will undoubtedly be no, or negligible, savings. So, when we talk of a \$1,500 threshold, we must bear in mind what the definition of that threshold is. Based on that, we believe, and we have something of a

consensus that there would be between 20% and 25% savings in bodily injury claim costs. Taking that, we related those--

ASSEMBLYMAN KOSCO: Wait a minute. Let me just back up one minute. You say that there would be a 20% to 25% savings in the costs?

MR. COOPER: In the costs, yes.

ASSEMBLYMAN KOSCO: In the costs of?

MR. COOPER: In the costs of bodily injury payments.

ASSEMBLYMAN KOSCO: Okay. Now, how would that relate to the cost of the insurance premium?

MR. COOPER: All right. We then took that and related it to the ISO, which is the bench mark rate for our State. ISO has 40% of the market; another 40% is in the AIP, which is based on ISO rates. The remaining 20% is not very far from ISO, so going from that basis is not unreasonable. We have taken the new ISO rates, and we calculate that, on average, 38% of the dollar which is paid by the public for private passenger automobile, relates to bodily injury insurance.

Working from that then, we can extrapolate, and we feel that it is not unreasonable to expect approximately a \$200 million saving overall, which would relate on a policy basis to somewhere between \$45.00 and \$53.00.

ASSEMBLYMAN KOSCO: All right. So, you are estimating that a policy, by changing the threshold to \$1,500, would give a saving of, let's use the low end, \$45.00 per?

MR. COOPER: Per policy.

ASSEMBLYMAN KOSCO: Per policyholder. That is an overall average?

MR. COOPER: Yes, that is on average, correct. That would vary, obviously, by territory, class, etc.

ASSEMBLYMAN THOMPSON: Is cost containment built into that threshold of \$1,500?

MR. COOPER: I'm sorry, Assemblyman.

ASSEMBLYMAN THOMPSON: Cost containment like-- For example, one of the complaints on this \$200 threshold has been that often they beat the lawyers behind the head, but they never said anything about the doctors. Now, do you have any cost containment?

MR. COOPER: Do you mean channels of cost containment other than the threshold itself?

ASSEMBLYMAN THOMPSON: Well, you know, one of the problems of the \$200 threshold is that three visits to the doctor would make the threshold and, from what I have read, I do not see much difference between the \$1,500 threshold and the \$200 threshold, when you are dealing with an area of subjectivity as to whether or not a person is still ill or he should still see a physician. Using the basic argument, it is a question between the insurance company's doctor who says, "Go back to work," and the private physician who says, "Stay home." Now, how do you contain the doctor in this threshold?

MR. COOPER: All right. There is, also, in A-1747, provision for a medical fee schedule, which would be promulgated by the-- (Mr. Cooper is handed material from someone on Insurance Department staff) Would you allow me to just read this for a moment?

ASSEMBLYMAN THOMPSON: Sure.

MR. COOPER: (continuing) Assemblyman Thompson, the issue dealing with the medical costs is built into A-1747 through the vehicle of a fee schedule which would be promulgated by the Commissioner. This would have the effect of keeping the costs down to reasonable levels. This has been used in New York, and that is the only state where it has been used, to the best of my knowledge. There is, in New York, a fee schedule which applies to Workers' Compensation, and that was read into existence for the New York

automobile costs as well. According to the New York Department, in the conversations that we have had with them, this has helped to contain costs in the auto area. There is no quantification to be made of this at this point. It is too new in New York, and here, until we see what a schedule is, we couldn't begin to say how much that would save. But, on the face of it, it should at least stabilize costs and not let them get individually out of hand.

ASSEMBLYMAN KOSCO: May I ask a question?

ASSEMBLYMAN ADUBATO: Go right ahead, Assemblyman Kosco.

ASSEMBLYMAN KOSCO: Two numbers are in conflict. The number that the Speaker used the other day when discussing bodily injury was 26%. The number you just used was 38% that you based your \$45.00 to \$53.00 savings per policyholder on. Are we using different numbers and different bookkeeping and different processes to come to a number that we want to-- Are we backing into a number, or are we using the numbers and then coming up with whatever we come up with?

MR. COOPER: No, we're using direct numbers.

ASSEMBLYMAN KOSCO: Or, is the Speaker using numbers that he wants to come up with? I don't know which is which.

MR. COOPER: I think there are two basic differences in the figures that Mr. Karcher had and those that we have, although I have not seen the make-up of his, so I am speaking from--

ASSEMBLYMAN KOSCO: (interrupting) Do you have a copy of that, Mr. Chairman?

ASSEMBLYMAN ADUBATO: Yes. One thing I would like to ask while we are showing this, is the Department using collision and comprehensive in their calculation?

MR. COOPER: Yes. The two basic differences, I think, between our figures and Mr. Karcher's, are that we are using total limits BI premiums, and we are, also, weighting them according to the exposures, rather than simply adding up all the averages. In the ISO experience, for instance, there are 1,659,000 cars that carry the mandated coverages, but only 1,200,000 that carry comprehensive. So, we have weighted on that basis.

ASSEMBLYMAN KOSCO: Are you separating comp from the--

MR. COOPER: The comprehensive coverage?

ASSEMBLYMAN KOSCO: Yes. Are you including that in that number?

MR. COOPER: Oh, yes. We have the BI total limits, the property damage total limits, PIP, comprehensive and collision.

ASSEMBLYMAN ADUBATO: And, some of those figures are based on a formula that you weigh, as you say?

MR. COOPER: The average premiums came directly from the ISO's most recent filing. Then, we also have their exposures, and we then weight each of the individual coverages by the exposures, and divide by the total to--

ASSEMBLYMAN ADUBATO: I have a question, sir, if I may. Will every company have the same-- Let's assume you're right with your figures, which are certainly questionable -- I mean, there is some confusion. But with your figures, assuming your figures are right, will every company selling automobile insurance in the State of New Jersey have the same decrease in their policies as a result of a \$1,500 threshold, if there is a decrease?

MR. COOPER: That will depend upon many things. I think if it is left up to a voluntary matter, the obvious answer--

ASSEMBLYMAN ADUBATO: I'm sorry, sir, I didn't hear that.

MR. COOPER: I said, if it is a voluntary matter, the answer, I believe, would be no, because we are going on the presumption that the premiums that we have are adequate premiums for the voluntary market. Not all companies perceive that to be the case.

ASSEMBLYMAN ADUBATO: Well, let's take it around and turn it the other way. Is it possible that if we had a \$1,500 threshold, assuming your figures are correct, some companies would reduce their total premium, let's say, by a figure of \$50.00, if that is what we are saying, some companies might reduce it by \$20.00, some by \$6.00, and some by none?

MR. COOPER: That is altogether to be expected, yes, because they would have used different--

ASSEMBLYMAN ADUBATO: (interrupting) That is to be expected. Well, let's take one of the larger companies. I think Allstate, which is now in a limbo situation with ISO, according to who you want to deal with, because I have seen they have been filing since 1977, I think, with ISO, although not approved until recently. But, let's take Allstate. Allstate is the largest writer of automobile insurance in the State of New Jersey. Do you have any idea what would happen to the rates with Allstate if New Jersey implemented a \$1,500 threshold? (loud electrical disturbance)

I apologize for that outburst. I will try to very simply rephrase the question. Allstate is the largest writer of automobile insurance in the State of New Jersey. The question is, if New Jersey had a \$1,500 threshold, do you have any idea what would happen to their rates?

MR. COOPER: No, I do not. It would be up to the company, under our rating law, to make its own choice as to what they would file.

ASSEMBLYMAN ADUBATO: But, isn't Allstate part of ISO, and didn't you just give us the effect on ISO?

MR. COOPER: Yes, Allstate is currently using the rates applicable for ISO. ISO is their filing agent in New Jersey. Presumably, they would do whatever ISO does, unless they thought that that was entirely wrong. They would be free then to break from ISO and send us an independent filing.

ASSEMBLYMAN ADUBATO: Is it possible that if Allstate had the \$1,500 threshold in effect that they wouldn't reduce their rates one penny?

MR. COOPER: I cannot say what their motives would be, or what they would do.

ASSEMBLYMAN ADUBATO: No, I asked, "Is it possible?"

MR. COOPER: Well, no, they would have to take certain steps first. If ISO changed their rates and did acknowledge the value of the threshold, then Allstate would have to do that unless they filed papers with us divorcing themselves from the Bureau.

ASSEMBLYMAN ADUBATO: All right, if they divorced themselves from the Bureau, is it possible that Allstate, based on their calculations, because I may have the benefit of more information than you do -- that's possible -- is it possible that Allstate, with a \$1,500 threshold, would not go down more than \$6.00, and that is a high estimate? That is a statement that I am making, and I am not going to show you any supportive data I have to make the statement, because I reserve the right of the Commissioner to make a statement without showing you facts.

Now, I am saying to you, sir-- If I say here and now, publicly, that if New Jersey instituted a \$1,500 threshold, Allstate would not go down more than \$6.00, are you saying to me that it's possible, or it's not possible, or what? Do you think that is possible?

MR. COOPER: Whatever Allstate chooses to do is their right to choose. We are talking here about savings which we have calculated given certain assumptions. Crucial to those assumptions is the fact that there would be a 20% to 25% savings in claim costs, figures with which Allstate totally agrees.

ASSEMBLYMAN ADUBATO: What has been the effect in Florida? People have thrown around the Best Report. The Commissioner's office has used the Best Report to indicate that New Jersey has the highest cost of automobile

insurance in the nation. Do you accept the facts and the data of the Best Report, Mr. Cooper?

MR. COOPER: I accept them as being indicative; I cannot vouch for their total authenticity.

ASSEMBLYMAN ADUBATO: Could you tell us how those facts were gathered to determine New Jersey as being the highest and Tennessee being the lowest?

MR. COOPER: It is my understanding, and my recollection, that Best took the total premiums for the state, and divided it by the cars in the state to come up with an average.

ASSEMBLYMAN ADUBATO: What does that mean?

MR. COOPER: It means that they came up with an average premium.

ASSEMBLYMAN ADUBATO: Based on what?

MR. COOPER: Based on the total premiums reported as being written in the state, divided by the number of cars in that state.

ASSEMBLYMAN ADUBATO: The number of cars insured in that state, or the number of cars in that state?

MR. COOPER: They did it by the number of cars, I guess. I don't believe they could get at directly the number of cars insured. They did make certain apologies.

ASSEMBLYMAN ADUBATO: Pardon, sir, I didn't hear that.

MR. COOPER: I said, they made certain apologies.

ASSEMBLYMAN ADUBATO: They made certain apologies, you said?

MR. COOPER: For possible problems in the way they arrived at that information. However, they stated, and it is my recollection--

ASSEMBLYMAN ADUBATO: (interrupting) Can you tell me where they made those apologies, because I haven't seen them in any print.

MR. COOPER: It is in the newsletter, or statement, or whatever vehicle it was where they reported it.

ASSEMBLYMAN ADUBATO: Was it in any newspaper to your knowledge, like the Best reports were in the newspapers, that the Best Service offered an apology? Do you remember any newspaper in this State, or any magazine article in this State, carrying the story that Best apologized for the way they gathered their data, that it was not as it was presented, or that it was not interpreted properly?

MR. COOPER: No, they did not make that statement.

ASSEMBLYMAN ADUBATO: What did they apologize for, maybe you can help me?

MR. COOPER: They simply made a statement that there could be possible distortions of a--

ASSEMBLYMAN ADUBATO: I'm sorry; I'm doing this because I don't think anyone else can hear you.

MR. COOPER: Okay.

ASSEMBLYMAN ADUBATO: Possible distortions?

MR. COOPER: Possible distortions of a minor nature by the way they calculated the results.

ASSEMBLYMAN ADUBATO: All right. Let me give you my overview, and I would appreciate your expertise. What Best did, was to go into Tennessee, which I think you will agree has no compulsory insurance-- Is that a fact?

MR. COOPER: I believe it to be, yes.

ASSEMBLYMAN ADUBATO: Well, would you accept it as a fact if I told you it is?

MR. COOPER: Yes.

ASSEMBLYMAN ADUBATO: All right, thank you. What they did was go into the State of Tennessee, into the Motor Vehicle Department, and took all the registered vehicles.

MR. COOPER: That is correct.

ASSEMBLYMAN ADUBATO: Not insured vehicles, because you are not breaking the law in Tennessee if you do not have insurance. You can drive. You don't even have to carry PIP. You can just drive. They took the total registered vehicles and divided that number into the premium, not only for private passenger coverage-- Are you aware of that, sir, that they went beyond private passenger, but only showed the cost for private passenger vehicles, but what they included--

MR. COOPER: Yes. Then that was--

ASSEMBLYMAN ADUBATO: What did they include, sir, do you know? Help me, maybe I'm wrong.

MR. COOPER: I would have to refresh myself with the document. I do not have it in front of me.

ASSEMBLYMAN ADUBATO: They included commercial vehicles, excluding buses and trucks.

MR. COOPER: That is my understanding, and that is the note they made in their--

ASSEMBLYMAN ADUBATO: That is the scientific report that was circulated throughout the nation to compare apples and oranges, not only from the basis of where they started, of insurance, but when you go beyond and you take a pool that is not being covered by insurance, and you divide it into a number that is insured, do you accept that as good actuarial practice, to come up with an average premium, Mr. Cooper?

MR. COOPER: For their purposes, yes.

ASSEMBLYMAN ADUBATO: No, no, I'm asking you, as the Chief Actuary in the State of New Jersey: is that a method that you would approve of in New Jersey?

MR. COOPER: As I stated, for their purposes in that particular document, yes.

ASSEMBLYMAN ADUBATO: What was their purpose?

MR. COOPER: Their purpose was to show the relativity of premiums, state-by-state, within the nation. The absolute value of those--

ASSEMBLYMAN ADUBATO: Thank you, sir. Forgive me for interrupting you. I don't want to lose that. Their purpose was to show the relativity of premiums state-by-state. Now, let me not lose that. There are two things here. One, the relativity of premiums should be based on insured vehicles that produce a premium. That is a fact, if you are fair. Two, when you compare a premium on one end, with what you are paying for a value on the other end, you should compare comparable values. That's fair. If you are comparing a system of the Mercedes-Benz in New Jersey, as I call it, to a system of no insurance like Tennessee, or in Florida, where some people talk about a verbal threshold being the reason why Florida is so low, and it really isn't that low, because in that report it is the fifteenth highest-- But, in Florida you don't have insurance. You don't have insurance in Florida. It's a smoke screen. You have no compulsory liability, which may be a good thing, but under PIP, they have a maximum benefit up to \$10,000, if you are involved in an accident, for all your hospital and medical bills. And, they only pay 80% of the \$10,000, and you are allowed to buy it with a \$2,000 deductible, and they only pay 60% of your expense loss. So, in Florida, as opposed to New Jersey, where if a citizen of this State is in an accident, he is protected unlimited millions-- It's possible, isn't it? And, that is calculated into that average cost, isn't it? Is that a fact?

MR. COOPER: I believe it to be, yes.

ASSEMBLYMAN ADUBATO: And, were these facts ever brought out or alluded to in that Best Report in any way, shape or form that the industry uses, and that the Department used and the Commissioner used when he said, "I blame the Legislature in showing the high cost of insurance." Did anybody in

your Department, or did anybody in the Best Report talk about the differential between values, or the fact that they took information from sources that were not apples and apples, to your knowledge?

MR. COOPER: In the report, there is a discussion about how they got to their data and the problems attendant thereupon, which are the ones you are talking about.

ASSEMBLYMAN ADUBATO: Let me ask you something, Mr. Cooper. I don't mean to-- As a layman, not as an actuary, as a citizen, forgetting your academic background, in your opinion -- that is all we can ask for -- do you think that the press has accurately reported what the Best Report was?

MR. COOPER: I am in no position to answer that, sir. I am here as an expert witness as an actuary, and that is way out of my field.

ASSEMBLYMAN ADUBATO: Do you read the newspapers in New Jersey, sir?

MR. COOPER: I read certain newspapers in New Jersey.

ASSEMBLYMAN ADUBATO: Have you ever read the Star-Ledger?

MR. COOPER: Yes, sir.

ASSEMBLYMAN ADUBATO: Do you read it often?

MR. COOPER: I read it almost everyday.

ASSEMBLYMAN ADUBATO: Well, I don't know if that is good or bad, but okay. Do you read any other papers in New Jersey besides the Ledger, just as a curiosity?

MR. COOPER: I read our local Hunterdon County Democrat, yes.

ASSEMBLYMAN ADUBATO: Are you, again -- maybe that is the wrong way to phrase the question. But, you know, I am not blaming reporters, because reporters can only print what they are told. They do not make the story; they write the story. And, I present the fact that the Insurance Department of this State has a responsibility to respond to things like this, not compound them by using this report to impress upon the people of this State that for some reason, if you were paying an average premium, or if you were paying \$274.00, or \$250.00, and you lived in Tennessee, you would have the same benefits as you would have in New Jersey.

Now, I don't know if you understand this, but I do. The people of this State who believe that to be a fact -- they believe, based on the media, and based on the ineptness of the Department to help us understand, that we are paying the highest cost of insurance and getting the same benefits. There are many reasons, and I would agree with you and everyone else who is here, that they are complex, and we are trying. But, certainly, everyone should agree that New Jersey is paying the highest cost because we have probably one of the best, if not the best, benefit packages. Do you agree with that?

MR. COOPER: Yes, and I think the Department has said that on several occasions.

ASSEMBLYMAN ADUBATO: Oh, thank you. So then, the Best Report is not what you would call a fair method of comparison, is it, for value?

MR. COOPER: I think it is fair for the purposes that they intended it to serve.

ASSEMBLYMAN ADUBATO: How about is it fair for the people of New Jersey?

MR. COOPER: I am in no position to offer an opinion on that.

ASSEMBLYMAN ADUBATO: I'm sorry. I am just outraged at that report and the fact that these people, you know, would have, again, the blatant disregard for facts, and twist them around, because, you know, I've said it before and I will say it again, the figures don't lie. I won't continue that, but figures do not lie. Go ahead, Assemblyman Kosco.

ASSEMBLYMAN KOSCO: Mr. Cooper, you keep saying that it was okay for the purpose for which it was written. What was the purpose for which it was written? Was the purpose to give accurate information to the people who were going to read it?

MR. COOPER: The purpose of the report-- I will make a guess at this. I think that the--

ASSEMBLYMAN KOSCO: (interrupting) Is there a statement in there that says, "The purpose of this report is?"

MR. COOPER: Again, I have not looked at that report for several weeks, but it is my understanding that they simply were ranking states as to average premiums. It was to show what amount of money was being paid by registered cars for insurance purposes, without any regard whatsoever to the package of benefits involved.

ASSEMBLYMAN KOSCO: Or whether or not the cars were covered by insurance.

MR. COOPER: That is correct; they noted that.

ASSEMBLYMAN KOSCO: I mean, that is the key. The key is, as the Chairman said, -- the key is that if you are going to lump all the cars that are registered in a state, there may be cars registered in the State of New Jersey-- For example, I own an automobile dealership, and right now I have probably 300 cars registered that are not on the road. They are registered, so if you check the registered cars, multiply that times the number of automobile dealerships, for example, in the State, and you have a whole bunch of cars that are registered, but they are not on the road, so they do not carry collision insurance, or that type of insurance. They only carry insurance that is applicable for the purpose of keeping the cars in inventory.

MR. COOPER: I find myself in an uncomfortable position guessing upon the motives of other actuaries. Those were not my figures.

ASSEMBLYMAN KOSCO: Well, yes, but you said it was a good report for the purpose for which it was written. I am trying to find out the purpose for which it was written. I do not know what the purpose was.

ASSEMBLYMAN ADUBATO: May I help, sir? There was no purpose stated for the report in anything I have ever read or seen. To the best of my knowledge, there was no purpose stated, except, in my opinion, to confuse the public even more. That is an opinion.

ASSEMBLYMAN KOSCO: I have another question.

ASSEMBLYMAN ADUBATO: Go ahead, Mr. Assemblyman.

ASSEMBLYMAN KOSCO: In a report we received from the Lawyers Encouraging Government and Law, they make a statement here and they refer to Florida. In one of the statements they have here and, obviously, as you know, they are opposed to the threshold change we are discussing, they say, "it is now time for the insurance industry to explain in detail their financial conditions. The public reads of their losses year after year, while they show gains in their net worth year after year. It is time New Jersey passed financial disclosure laws to be able to properly evaluate the health of New Jersey insurers and the need for rate increases. The State of Florida passed financial disclosures and excess profits legislation. The result is substantial refunds to the consumers."

They enclose, also, a newspaper article-- Again, we keep referring to newspaper articles because, you know, the truth is what the people read in the newspaper, and when people--

ASSEMBLYMAN ADUBATO: (interrupting) Assemblyman, forgive me, don't apologize for that, because the Commissioner's statement included newspaper accounts to prove his position.

ASSEMBLYMAN KOSCO: I am not apologizing for anything, Mr. Chairman. I am just making a statement that we included because that is what the people read and that is what the people believe. The Journal of Commerce in Florida reported that the insurance companies had to refund over \$20 million as a result of this financial disclosure legislation. Do you think that would be of any assistance? We are looking for ways to decrease the cost of insurance, even the best insurance coverage we have. We would like to try to get it for as little as possible for our people.

ASSEMBLYMAN ADUBATO: Well, the Speaker has already called for financial disclosure, just for your information, and I think -- the Commissioner is here and he can correct me -- that when he testified before the Joint Appropriations Committee, the Commissioner said he would support financial disclosure. So, I mean, just to help you--

ASSEMBLYMAN KOSCO: Would it serve a good purpose, is what I am asking?

MR. COOPER: Let me distinguish two things. The amount of money which was returned to the policyholders in Florida was due, not to any disclosure requirements, but due to the excess profits law.

ASSEMBLYMAN ADUBATO: The profits law, yes sir.

MR. COOPER: Now, what had happened in Florida, in the late '70s, several changes were--

ASSEMBLYMAN ADUBATO: Excuse me, Mr. Cooper, but don't you need both, because you can't have the excess profits law implemented unless you have financial disclosure?

MR. COOPER: The financial disclosure--

ASSEMBLYMAN ADUBATO: As it applies in Florida, not in New York?

MR. COOPER: Yes. In Florida, the amount of detail which is called for on their Forms Q-A, Q-B, Q-C, which are the reports you are talking about, are far more detailed than is necessary to comply with the provisions of the excess profits law. In Florida, the excess profits law, or the way it is calculated, is actually stated in the statutes, as opposed to New York, where there is only enabling legislation. So, you do not need both to the extent that Florida has. Now, I am not saying that they shouldn't exist; I'm just saying that to calculate it, you do not need everything that is in the financial disclosure.

ASSEMBLYMAN ADUBATO: I would accept that, Assemblyman. You know what is interesting? We keep talking, Mr. Cooper, about the threshold, and let's use the Best Report. When we in New Jersey look at the fifty states, did you happen to take the time to look at the states to see how many had thresholds, how many were no-fault states, how many had compulsory liability? Did you ever take the time to calculate that, by any chance?

MR. COOPER: I looked through the report with an eye to those states which were no-fault and those which were not. I do not remember what, if any, conclusions I came to.

ASSEMBLYMAN ADUBATO: Well, I do not know if it is conclusive, but in talking about the threshold as cost savings and New Jersey being exhibited as the highest, and using their figures -- I am not saying their figures are correct -- we show New Jersey as a \$200 threshold that excludes hospital, as being the highest. Now, when I look at the fifty states, I see thirty-five states which are really not no-fault states, and fifteen states which are. I see three of the no-fault states having a verbal threshold, and twelve having a monetary threshold. Out of the twelve states that have a monetary threshold, New Jersey is the only threshold in the monetary category that excludes hospital, and other things. For instance, Massachusetts includes hospital costs and all these other things in their \$500.00 threshold. Connecticut, in their \$400.00 threshold, includes everything. Pennsylvania,

in their \$750.00 threshold, includes it. Hawaii, in their \$1,500 threshold, which fluctuates, includes hospital. Minnesota is the highest, I believe, with \$4,000.00, but that includes hospital as well. Colorado is \$500.00; Kansas is \$500.00; Georgia is \$500.00, Utah is \$500.00; North Dakota is \$1,000.00; and, Kentucky is \$1,000.00. They are the twelve states that have a higher dollar amount than New Jersey -- dollar amount. But, in order to reach that dollar amount, Mr. Cooper, would I be fair in saying that those states that have a \$500.00 threshold, including Pennsylvania, which has a \$750.00 threshold, and New Jersey having a \$200.00 threshold with the exclusions -- do you think they have a better threshold than we do because they have that several hundred dollars more than we do, or is ours as good, if not better, because we exclude it even though we have a \$200.00 threshold? I think you are getting the drift of what I am asking.

MR. COOPER: Yes, I understand what you are asking, Assemblyman. I cannot give you a direct answer, because I do not have at my disposal the figures I would need to see what would happen if we were to take hospitals out of those other thresholds and what would happen to them.

ASSEMBLYMAN ADUBATO: I am not talking about taking hospitals out, but it was testified to here before today, and Monday, by the Commissioner that the CPI he was talking about, which is, you know, not the general, but just that portion, would be higher. Now, if that is a fact, then you would have to include the hospital costs as part of that, wouldn't you?

MR. COOPER: I believe in the CPI there are two indices. One deals with hospital costs, and the other deals with physicians.

ASSEMBLYMAN ADUBATO: Yes, sir, and what I am talking about is the portion that deals with hospital costs. Do you think they are the same, the indices that deal with the hospital costs and with the doctors? Are they comparable?

MR. COOPER: No, they are not. They are similar, but they are not the same.

ASSEMBLYMAN ADUBATO: Well, in value, what differences are there? Are the doctors' indices lower or higher than the hospital?

MR. COOPER: I do not recollect which is which.

ASSEMBLYMAN ADUBATO: Would you accept the fact that it is much higher?

MR. COOPER: It is my recollection that it probably is higher. I am not certain of that fact.

ASSEMBLYMAN ADUBATO: Okay. When we look at these fifty states, and let's talk about the three states that have a verbal threshold, which I think are -- I'm not sure -- I think one is Michigan, I think one is Florida, and I think one is New York. I say, "I think," because I am human, and I'm sure I make a lot of mistakes too. But, I think they are the three states.

MR. COOPER: I think your list is correct.

ASSEMBLYMAN ADUBATO: Now, in those three states that have a verbal threshold, do you know where they appear on high to low in this Best Report?

MR. COOPER: I believe that all three of them are on the higher side of the average.

ASSEMBLYMAN ADUBATO: On the higher side of the average, with a verbal threshold?

MR. COOPER: Yes.

ASSEMBLYMAN ADUBATO: Well, if that is the case, and you are right, because New York, which not only has a verbal threshold, but also has a "cap" on PIP of \$50,000.00, also has the Workmen's Comp schedule with a medical fee schedule in it, okay? -- on this report is the forty-eighth highest cost in the country, in spite of the fact it has a very strong verbal threshold, I think, and in spite of the fact it has a \$50,000.00 "cap" under PIP, and in

spite of the fact it has a Workmen's Compensation medical fee schedule. Now, that is a fact. Then we look at Michigan. Unfortunately, one of our good Senators, in a letter to the New York Times recently, suggested that we should go to the system in Michigan because he said, "they have one of the lowest premiums in the country." I do not want to embarrass that good Senator. He may have gotten that information from someone working for Best. But, the Best Report itself indicates that Michigan is the forty-first highest, which means there are forty states that are cheaper than Michigan. Now, this is a Senator who is making that statement that Michigan is one of the lowest, based on information he is getting from someone.

Now, let's talk about Florida. Florida, not to repeat the whole jargon, but Florida is the fifteenth lowest, but it does not have any insurance and, when I look through this list, and I talk about the lower states, okay, and I go from high to low, I get down to Tennessee. Tennessee, no threshold; Alabama, no threshold; North Carolina, no threshold; South Dakota, no threshold; Mississippi, no threshold; Arkansas, Iowa, Ohio. The one thing that jumps off the page there, to me as a layman, because I am not an expert like you are, but the one thing that jumps off the page there, to me, is that none of those states have compulsory insurance.

ASSEMBLYMAN KOSCO: Or no-fault.

ASSEMBLYMAN ADUBATO: Or no-fault, you're absolutely right. That is the first thing that jumps off the page. Then we go to Kentucky, and there are questions about Kentucky that I will not bother anybody with at this hearing. Then we go to Wisconsin, Indiana, Virginia, Maine and Idaho. Then Florida, with a verbal threshold. New Hampshire, Oklahoma -- none, none. And, again, when you turn on the other side of the page, even Illinois-- When I look at this breakdown and I see Illinois, it is amazing to me that Illinois is right up there in the top-heavy portion of premiums, and Illinois does not have compulsory, right, although I understand that their Legislature is trying to go the other way now. I am told by some legislators out there that they want compulsory liability.

What I'm saying, is that the Best Report had no purpose. What I'm saying, is that it was a tool to implement a verbal threshold in this State, used by the industry people and their propaganda sources. That is my charge. I can't prove it, but they have no purpose. The only thing I know is they keep talking about New Jersey, but they do not talk about the benefits we have here, and they do not give it a fair comparison. That is my opinion. That is an opinion.

The 1972 law, Mr. Cooper-- I'm sure you had an opportunity to look at that existing statute, right?

MR. COOPER: The New Jersey statute?

ASSEMBLYMAN ADUBATO: Yes, sir.

MR. COOPER: Yes, I have looked at it.

ASSEMBLYMAN ADUBATO: When that statute was passed-- Are you familiar with what was being said about what that statute would do as it affected premiums -- what was said by the Chief Actuary of the State of New Jersey, what was said by the Speaker, by the Governor, and by the Republican-controlled Legislature?

MR. COOPER: No, I am not familiar with those statements.

ASSEMBLYMAN ADUBATO: Do you think it was a good bill when it was passed?

MR. COOPER: As an actuary, I cannot comment on the value of legislation.

ASSEMBLYMAN ADUBATO: What I'm saying, is that New Jersey has been criticized -- I think you would accept this -- as being one of the worst no-fault states in the country. I do not know what that means, "worst." If

they are saying we have the best benefits, I guess we are the worst. If they are saying we have a package of insurance that is very costly, I guess we are the worst, because we provide the most benefits. But, when that bill was passed, and the newspapers throughout this State printed -- for instance, Governor Cahill said at the time, "No-fault savings will add up to \$87 million," and don't forget, we're making a comparison of the market at that time, which not being an actuary, but a layman, I think you would have to project that in today's world, to know that in today's world, if the \$200.00 threshold reduced, according to these articles, and according to the statements by the actuaries, 69%, that this \$87 million today, and if we are saying that the \$200.00 threshold -- and I do not accept the fact that it would be \$1,500 today on any CPI, no matter what CPI you use, including physical damage-- It still wouldn't be \$1,500. But, let's say that it was \$800.00. I think the figure is about \$580.00, but let's say \$800.00. Let's say \$1,000.00; I'll even say \$1,500.00 to discuss it. Let's say it is \$1,500.00. Isn't it expected that, if that is true, what was true in 1972, that it has to be true today, that the impact would be that we would reduce tort and reduce the cost of insurance by that same projection and, when the Legislature mandated, I believe it was Assemblyman Raymond, Gene Raymond -- when that bill was passed in here, there was a mandated reduction of BI of 15% -- mandated by statute. How do you feel about mandating reductions in the Legislature as a result of saying we are going to reduce the cost? How much would you say would be reasonable to mandate a cost, if we had a \$1,500.00 threshold?

MR. COOPER: In answer to your first question--

ASSEMBLYMAN ADUBATO: I don't know which one it was, forgive me. Go ahead.

MR. COOPER: The first question, I think, was "Do you feel that increases should be mandated?"

ASSEMBLYMAN KOSCO: No, the first question he asked was, "Do you think that the same percentages would be comparable today as they were back when the legislation was first passed?" I just point that out to let you know that I am paying attention.

MR. COOPER: Thank you, Assemblyman. I really cannot answer that question. It is so encompassing that--

ASSEMBLYMAN ADUBATO: Well, you can't speak for the Department, and I know that. But, when the Commissioner comes back I'll ask him if he would publicly support a mandated cost of any increase in the threshold, any increase, whether it be to \$1,500.00 or, if we eliminated the threshold and had a whole new-- I don't know. But, I think that the people of this State have a right to expect, not only that by some magic, in no form were they ever given, that we would not implement the constants that we are talking about, because up until the Commissioner's statement was issued before this Committee, every media reported, with quotes, that the Commissioner said he would rescind -- rescind -- the constant, if the \$1,500.00 threshold was passed before June 1. Now we are told there is no factual data to support the \$1,500.00 threshold. I want to know how we determined that he was going to rescind a constant, without having any factual data to support the number he gave. I think that is reasonable. And that is what this is all about -- to the starting point. And I do not mean-- I am not asking you this. It is frustration talking now, and I admit that. It's frustration.

I want to say to you that I don't have the answers, and neither does Assemblyman Kosco, I don't think. We do not have the answers. I don't think any of us have the answers. I want you to know that you and I may disagree about how things are done, but I want you to publicly hear how much this Committee appreciates you spending all the time you spent here on Monday

and today, and, also, the other people in the Insurance Department who spent their time here.

I would like to conclude with the Insurance Department. There is just one other area I want to ask the Commissioner about which would take, I hope, about five minutes. I do not think that is something you should be responding to; I would like him to respond to it. I am still waiting for an answer from the Commissioner about when this press release-- He said he wanted to read it, but so far, Mr. Hooper hasn't given him the press release. We found ours, and I would be happy to give it to him when he comes back into the room. Hopefully, the Commissioner will come back, and we'll show him this. We will let him read it, and then respond to it, because this says what he told us. It talks about -- I'll say it -- it talks about his statement. It does not refer to anything beyond his statement that we asked him. I don't understand how anyone -- I'm saying it to you, and I will repeat it when the Commissioner comes back. Maybe I shouldn't; I apologize. I'll wait for the Commissioner to come back. I'm wrong; I stand corrected.

ASSEMBLYMAN KOSCO: May I ask one more question?

ASSEMBLYMAN ADUBATO: Yes, sir, ask your question.

ASSEMBLYMAN KOSCO: This is just a question that you might be able to answer, or give me an opinion on. Pennsylvania, at the present time, has a \$750.00 threshold. My concern is that if the threshold doesn't have any effect, or that much of an effect on the premium, as some of our legislators are saying is true, how come Pennsylvania is considering a \$10,000.00 threshold, to go from \$750.00 to \$10,000.00. If that is not going to have an effect on the premium, my question is, what is the purpose of it? Why is anyone talking threshold if it is not going to make that big a difference? The second part of my question is, I'm wondering if it really isn't going to make any big difference, then why are some people so upset about it happening?

MR. COOPER: The change that has been recommended for Pennsylvania going to a \$10,000.00 threshold is the position of the Department and of the Governor.

ASSEMBLYMAN ADUBATO: I'm sorry, sir. Would you say that a little bit louder? Whose position is it in Pennsylvania?

MR. COOPER: It is the position of the Department and of the Governor to make that change.

ASSEMBLYMAN ADUBATO: Okay.

MR. COOPER: It is my understanding, although I am not thoroughly conversant with what is going on in our sister state, that they do expect savings involved in that change to a \$10,000.00 threshold.

ASSEMBLYMAN ADUBATO: Savings, you say?

MR. COOPER: Savings.

ASSEMBLYMAN ADUBATO: I don't want to lose that, because I have had an opportunity to talk to quite a few legislators in New York and in Pennsylvania, and I am very familiar with the \$10,000.00 proposal, and I would like to share a little information with you. Pennsylvania has a new Assembly, a Democratically-controlled Assembly in this session. They have a Republican Governor and, I think, a Republican Senate.

MR. COOPER: That is correct.

ASSEMBLYMAN ADUBATO: The former Chairman of the Insurance Committee in the Assembly introduced the \$10,000.00 threshold as a "political" maneuver to embarrass the Democrats in the Assembly, as told to me by the Chairman in the Assembly. It has no chance of even being heard. It has been publicly stated by the Assembly that they will not hear the bill, and that it was a partisan move to bring pressure, without substance. Now, I'm telling it to you as it is, and anyone who sits here -- I'm not saying

you, but anyone who sits here and submits that as a real-thing happening, is misleading you.

I would like to talk about the New York Senate, but before we talk about that I just want to end this. In this statement from our good Senator Farley from New York, who I have been communicating with, who is a good Republican, and a good person, and who is involved in many things, not only in New York, but throughout the Eastern region and throughout the country, has been kind enough to share all kinds of information with this Chair and with this Committee. One of the things he pointed out here to us -- I am going to read it again, because I think it was lost. "The bulk of the insurance premium is attributable to the cost of physical damage coverage. Legislative investigations have also found that, contrary to popular belief, the skyrocketing cost of auto insurance is not due primarily to no-fault." That is the sentence preceding the first sentence. What he is saying, and he goes on, and I will be happy to share this with you -- what he is saying is that no matter what the threshold is, and they went to a verbal -- what he is saying in his conclusion is that, even with the verbal threshold, you are not going to reduce the cost of insurance to the consumer. At best -- at best, you may stabilize, and that is the jargon of the industry-- "Stabilize" translated means that instead of coming in for a 15% or a 20% increase, they come in for a 12% or an 18% increase. You have a decrease in your increase of three to five points, or as much as 25%, or one-third. That is the effect. That is what "stabilization" means in the jargon of the industry. It doesn't mean reducing the rate one penny. And, if it did reduce the rate, according to our good Senator, in less than five years, the impact of that reduction would be lost forever -- forever -- in the system, due to inflation. That is the report against the verbal threshold in New York by a good Republican Senator, and I will be happy to share it with you later.

I think we should learn from our sister states, you're right. Our sister states, I guess, are Pennsylvania, Connecticut and New York. Now, in Pennsylvania they have a \$750.00 threshold that includes hospital, and everything else. In Connecticut, our good sister state, they have a \$400.00 threshold that includes hospital and everything else. And, in Massachusetts, they have a \$500.00 threshold. Now, more or less, these are our sister states.

I do not want to get into the fact that in, you know, some states you are really covered for only \$2,000.00 and all your medical bills. Some of our sister states do not have insurance. In another one it's \$5,000.00, which means you have to sue to be reimbursed for your hospital costs. Sue. In Florida, you have to sue if you take your \$2,000.00 deductible. Of course, when I spoke to the good people in Florida, they said I was wrong, that you didn't have to sue, but I would be happy to show the letter of apology saying that our staff -- not me, because I'm not that good, but I have good staff -- our staff was right, that you had to sue in Florida to even get the \$2,000.00 deductible. So, they are inviting lawsuits, and the whole rhetoric and jargon and the climate out there is that the reason why New Jersey has the highest cost of insurance is because of lawyers who have a full employment act. I submit that there is more tort in Florida, more tort in California than New Jersey ever dreamed of having. While there are problems with the tort system, and I would be the first one to admit it, and there are things that need to be corrected, I will join with that too, and say yes, I think it is unfair to blame six cents -- six cents of the total premium for the problem. Six cents, and that is what the industry has spent several hundred thousand dollars plus, collectively, on their propaganda in this State, and it is unfair to everybody to do that. I'm not talking about the lawyers; I'm talking about the people. It is unfair to the people.

That is the reason why we are having these hearings, to find out if these facts are true, because we hear different facts from different people. I don't know if the Commissioner is coming back. Do you know, Mr. Hooper?

FROM AUDIENCE: Yes, he just stepped out for a few minutes.

ASSEMBLYMAN ADUBATO: Okay.

ASSEMBLYMAN KOSCO: Mr. Chairman, just as a statistic that I have-- The percent of claims represented by attorneys in Florida is 72%, and in New Jersey it is 87%. The percent of claim dollar represented by attorneys is 97% in New Jersey, and 89% in Florida. So, we lead both categories on the attorney representation bit.

ASSEMBLYMAN ADUBATO: Yes.

ASSEMBLYMAN KOSCO: That's all.

ASSEMBLYMAN ADUBATO: All right. While we are waiting for the Commissioner, I notice that the Senator is here. Before the Senator comes up, I want the Commissioner to come back if he can, if he is able to, I mean, if he is not tied up with something else. That's what I mean. (comment from audience) The Commissioner is issuing a press release, I understand. Well, we'll wait until he finishes his press release. Of course, the good senior citizens didn't have one press release, but that's okay.

I would like to read a press release from Assemblyman Thompson. This press release was given to every newspaper that writes, around here. To the best of our knowledge, not one newspaper carried it, and that is their right, because, certainly, we do not own any newspapers. We cannot force anybody to print facts. However, everything that is said here today is documented, both visually and by audio. There are two audio sets. I have a complete set, and the State has a complete set. I paid for my own tapes, and I am paying for my own visual.

Assemblyman Thompson issued this press release, and I guess it wasn't newsworthy enough, and I am going to read it to you. "For release immediately," and this comes from the Assembly Majority Office, and from the Speaker Alan Karcher and John Paul Doyle. "Press Release, Trenton: The Vice Chairman of the Assembly Banking and Insurance Committee today scored the gross insensitivity of testimony by Insurance Commissioner Joseph Murphy, in which Murphy revealed that affordability is not part of the rate-making system.

"This is an outrage," said Assemblyman Eugene H. Thompson, Democrat of Essex. "The first responsibility of the Commissioner, and of any public servant for that manner, should be to protect the people of New Jersey, in this case, the motorists," Thompson said. "The first responsibility of the Commissioner, and of any public servant for that manner, should be to protect the people of New Jersey, in this case, the motorists," Thompson said. (That was repeated for a purpose.) "For the Commissioner to say that affordability is not a factor in considering the justification of auto insurance rates shows gross insensitivity," said Thompson. The Newark Democrat added, however, that he was not surprised by Murphy's statement. "This has been the Commissioner's attitude since he assumed his position," Thompson said. "Since the Commissioner's attitude has become policy," Thompson continued, "it will be up to us Democrats in the Assembly to see that affordability will become a factor in auto insurance rate-making. The Banking and Insurance Committee, Chaired by Assemblyman Michael Adubato, Democrat of Essex, began holding hearings Monday into means of halting spiraling auto insurance premiums in New Jersey." Thompson further objected that the Governor called the hearings unnecessary, and added, "the lack of information and the abundance of misinformation provided by the Department shows Mr. Kean is wrong. These hearings are necessary. As an example of the Insurance Department's unpreparedness," Thompson noted, "it was legislative leaders,

and Adubato in particular, who first discovered the Federal government's intention to cut Medicare aid to pay for senior citizens injured in auto accidents,' (and shared it with the people -- I'll add that. It is not in the press release "and shared it with the people") 'The Banking and Insurance Committee first learned of this Reagan Administration cut last Fall and, after consulting with Speaker Alan Karcher, sent telegrams to the President and to the Vice President, House Speaker O'Neill, and other highly-elected officials,' Thompson recalled. 'Commissioner Murphy, in all likelihood, knew about the Medicare cut as early as last June, but he remained silent. Governor Kean remained silent, and it was only after the Democratic leadership in the Assembly spoke last month that Mr. Kean finally reacted, and his only response was to consider a lawsuit. Meanwhile, 300,000 elderly motorists now face the prospect of paying premiums that will increase from \$58.00 to \$114.00 per car,' Thompson said. Thompson also warned of serious problems posed by Commissioner Murphy's suggestion to use casino gambling revenue to pay for no-fault coverage for senior citizens. 'It is a notion that should outrage every senior citizen in the State who benefits from programs financed by casino revenue, such as Pharmaceutical Aid to the Elderly, Lifeline and others,' Thompson said. 'Casino revenue for such programs is constitutionally dedicated, and cannot be appropriated for other purposes with the approval of the voters of New Jersey.' (It should have said 'without their approval.')

"If Commissioner Murphy did not know that he was inept,' said Thompson, 'but if he did understand that his comment was the height of cynicism, why should funds solemnly pledged to help our most hard-pressed residents suddenly be converted to subsidize the auto insurance companies?'"

Unfortunately, this did not appear in any newspaper, to the best of our knowledge, in the State of New Jersey, and that is their right. I believe in a free press. It is the best thing we have going for us, in spite of the fact that sometimes they are inaccurate, and sometimes they do not take the time to check facts, but that is not their responsibility. Their responsibility is to be free and independent, and we accept that as a good thing in our society, in spite of the fact that it is not perfect -- for the record.

Commissioner, before you leave, I know you had to go out and give a press conference--

COMMISSIONER MURPHY: I would like to make a response, just very briefly, to that statement.

ASSEMBLYMAN ADUBATO: Oh, I'm sorry. Go right ahead, sir.

COMMISSIONER MURPHY: That document you read--

ASSEMBLYMAN ADUBATO: I'm sorry, sir. Before you go any further, I apologize. We waited--

COMMISSIONER MURPHY: I understand.

ASSEMBLYMAN ADUBATO: So, you know where that document comes from?

COMMISSIONER MURPHY: Well, I gathered.

ASSEMBLYMAN ADUBATO: Okay, as long as you know what it is.

COMMISSIONER MURPHY: I just have to, obviously, characterize that document for what it is, an inaccurate and political instrument. I will point out, just for the record, and as an example of how accurate, or inaccurate I should say, that document is, is the reference to affordability. As I walked in-- Would you read again for me, please, that reference to affordability in there? I would like you to read it, because I want to stamp that out right now.

ASSEMBLYMAN ADUBATO: Well, why don't you tell me what you think it said, and then I will read it?

COMMISSIONER MURPHY: Well, I want you to read it; you have it in front of you.

ASSEMBLYMAN ADUBATO: I read it once, sir; I will be happy to read it again. What are you objecting to, and then I'll read it? Tell me what you are objecting to.

COMMISSIONER MURPHY: All right, that reference to affordability -- that I said affordability had nothing to do with my treatment of rates, or some such thing.

ASSEMBLYMAN ADUBATO: No, sir, it did not say that, but I will be happy to read what it said. It said, "Affordability is not part of the rate-making system." And, I will read from your testimony on Monday, "Affordability is not one of the criteria of our rating law."

COMMISSIONER MURPHY: Will you stop? That is absolutely true, but you might also--

ASSEMBLYMAN ADUBATO: I didn't say it wasn't.

COMMISSIONER MURPHY: All right, let me read the next sentence. Well, you seem to be making a point of it. Let's read the next sentence. I said, "Affordability is not one of the criteria of our rating law, yet the Department is fully cognizant of the harsh effect the cost of automobile insurance is having on our citizens." I take notice of current legislative efforts, and I go on and I point out that if these come to pass--

ASSEMBLYMAN ADUBATO: Sir, you're right. May I just say that the things you point out--

COMMISSIONER MURPHY: Well, please do not indicate that I am insensitive to the affordability issue.

ASSEMBLYMAN ADUBATO: I didn't say it. I only repeated the quote.

COMMISSIONER MURPHY: That is the plain implication of that document.

ASSEMBLYMAN ADUBATO: That is your quote, "Affordability," you know, "is not part of our rating law."

COMMISSIONER MURPHY: My quote, sir, is "it is not one of the criteria of our rating law."

ASSEMBLYMAN ADUBATO: Right.

COMMISSIONER MURPHY: The criteria of our rating law, for your information, is that rates must be not excessive, not unfairly discriminatory, and adequate.

ASSEMBLYMAN ADUBATO: What do the words "not excessive" mean to you, sir?

COMMISSIONER MURPHY: "Not excessive?"

ASSEMBLYMAN ADUBATO: Yes, what does that mean to you. Would you please define excessive to me?

COMMISSIONER MURPHY: Sure. A rate is excessive, in my opinion, if it returns more than a proper profit to an insurer. Now, we can sit down here and speculate all afternoon on returns on equity and all the rest, but once we have decided, as we have in this State under the Clifford Formula, what is a proper return, both on the underwriting and on the investment sides, anything that exceeds that would fall toward the excess profit.

ASSEMBLYMAN ADUBATO: Sir, I would accept your comments as your opinion; you are entitled to them. I would like to ask you, though, and I do not intend to keep you after twelve, in spite of the fact that you had to give a press conference -- and I appreciate the fact that you're news-- In your comments, you talk about those containments of cost as being the "Gallo bill and the Saxton bill." Is that a fair thing -- between the other two things, the medical fee schedule and the no-fault bill--

COMMISSIONER MURPHY: We cite that legislation as an example of cost containment.

ASSEMBLYMAN ADUBATO: Yes, sir, Assembly Bill 1747 and Senate Bill 3059.

COMMISSIONER MURPHY: I believe those are the numbers.

ASSEMBLYMAN ADUBATO: And, you also said that the Legislature is responsible for the mess we are in in New Jersey.

COMMISSIONER MURPHY: I did not put it that way exactly; I said it another way. I said that the cure to our high cost--

ASSEMBLYMAN ADUBATO: I have your press release. Would you accept your own press release?

COMMISSIONER MURPHY: Certainly.

ASSEMBLYMAN ADUBATO: All right. If I show you that your press release starts off blaming the Legislature for the responsibility, would you say that would be accurate?

COMMISSIONER MURPHY: Well, if I said it, certainly it is accurate.

ASSEMBLYMAN ADUBATO: Do you accept that you have said it, or do you want me to show it to you?

COMMISSIONER MURPHY: Well, if you have it before you, let me see it.

ASSEMBLYMAN ADUBATO: Okay. (Assemblyman Adubato requests Mr. Caramalis to go through the press release until he finds the quote they are speaking about.)

COMMISSIONER MURPHY: While he is looking through the press release, I will make a very obvious comment, which is obvious to everyone, that if the law is to be changed, it must start in the Legislature.

ASSEMBLYMAN ADUBATO: You are absolutely right, and with that in mind, Commissioner, the Assembly of New Jersey has been blamed for holding up the threshold bill. You and your Department have specifically accused the Chairman of holding up Assembly Bill 1747, by saying, "That bill was introduced on July 8 and has not been heard." Now, we went through that whole scenario here about the fact that the request was not made until March, and other things. But, let me ask you something, sir, have you ever once, in any of your comments, in spite of the fact that all insurance legislation since 1973 dealing with any changes in the system has been moved by this house and in this Committee -- any bill that has become law that changed the system in any way, dealing with auto insurance, since 1973, the Assembly has been the prime mover-- Are you aware of when Senator Saxton's bill was introduced?

COMMISSIONER MURPHY: I can't recall; it's on the bill, whenever it is. I don't know when it was introduced.

ASSEMBLYMAN ADUBATO: Did you ever look?

COMMISSIONER MURPHY: Well, I have, but I--

ASSEMBLYMAN ADUBATO: No, I'm asking you. You know when Dean Gallo's bill was introduced. Isn't it the same bill, word for word?

COMMISSIONER MURPHY: No, there are differences in it. It has the same general thrust.

ASSEMBLYMAN ADUBATO: Would you accept the Saxton bill?

COMMISSIONER MURPHY: Would I accept it?

ASSEMBLYMAN ADUBATO: Yes -- as being as good as the Gallo bill, since you equate them as the same in your comments?

COMMISSIONER MURPHY: Mr. Assemblyman, what I am trying to do is get some cost savings. I'll accept what I can get, but I have told you what I want, and you haven't moved on it. You have had the bill there for months, and you gave me some education the other day about written requests, but that certainly can't hold up the consideration of a bill. You've had that bill for a long time, and you haven't moved it, and I am going to continue to bring that message--

ASSEMBLYMAN ADUBATO: Sir, you may dictate to your people, but you'll never dictate to the elected members of this State.

COMMISSIONER MURPHY: Look, I am a citizen of this State, and I can represent myself here.

ASSEMBLYMAN ADUBATO: You are supposed to represent the people first, then yourself.

COMMISSIONER MURPHY: Yes, sir, I do. I represent the people.

ASSEMBLYMAN ADUBATO: No, you represent the people first.

COMMISSIONER MURPHY: And, you have not moved expeditiously on sorely needed legislation, Mr. Adubato.

ASSEMBLYMAN ADUBATO: Mr. Commissioner, Senator Saxton's bill has been in there as long as Dean Gallo's bill, and I accuse you publicly of never asking for that bill to be released.

COMMISSIONER MURPHY: Well, I'll have to check the record on whether we have asked that that bill be released from the Senate.

ASSEMBLYMAN ADUBATO: I've checked the record, and I accuse you, publicly here, right now, that you have never--

COMMISSIONER MURPHY: No, no, you said I never publicly--

ASSEMBLYMAN ADUBATO: No, you have never asked the Committee to consider that bill.

COMMISSIONER MURPHY: I have never asked what Committee, the Senate Committee?

ASSEMBLYMAN ADUBATO: Yes, sir.

COMMISSIONER MURPHY: I do not understand your statement.

ASSEMBLYMAN ADUBATO: Yes, sir, the Senate Committee. I mean, you have criticized the Assembly Committee from day one as being responsible. You accused this Chair of being responsible. Don't you know that there are two houses in this State?

COMMISSIONER MURPHY: I understand that.

ASSEMBLYMAN ADUBATO: This is not a unicameral Legislature.

COMMISSIONER MURPHY: You seem to regard it as one most of the time on insurance matters.

ASSEMBLYMAN ADUBATO: Well, maybe you regard it as one because this is the only place you criticize.

COMMISSIONER MURPHY: No, I don't. I do not recall what activity we have in the Senate right now; I would have to look at my file. Let me turn to my legislative representative.

ASSEMBLYMAN ADUBATO: Go right ahead.

COMMISSIONER MURPHY: (Commissioner speaks to a member of his staff who is present.) What are we doing in the Senate? All I can ascertain here at this point is that we, of course, do not have standing in the Senate to request a bill to be released, and we understand there--

ASSEMBLYMAN ADUBATO: (interrupting) What makes you think you have standing in the Assembly then?

COMMISSIONER MURPHY: I didn't say we did.

ASSEMBLYMAN ADUBATO: You're acting like you do. You are trying to dictate to this body.

COMMISSIONER MURPHY: I am not trying to dictate to you. I am pointing out that there has been a delay in the consideration of this legislation. I might point out, also, for the record, that I hope that we will have an opportunity to present our case for this bill in our own way.

ASSEMBLYMAN ADUBATO: I'm still waiting for that day to come and you will have your opportunity, because you certainly haven't done it today. But, in the next three minutes, I am going to go over the ISO filing. One, on January 7, you issued a press release talking about ISO getting an additional 7% increase, with no mention of the class changes that you gave increasing the rates of one million, or more, adult drivers in this State, while--

COMMISSIONER MURPHY: And, if--

ASSEMBLYMAN ADUBATO: Wait a minute, don't you interrupt me.

COMMISSIONER MURPHY: What do you mean?

ASSEMBLYMAN ADUBATO: Don't interrupt this Chair; you're out of order.

COMMISSIONER MURPHY: Okay.

ASSEMBLYMAN ADUBATO: You are out of order.

COMMISSIONER MURPHY: Continue.

ASSEMBLYMAN ADUBATO: On January 7, you issued a press release raising the rates of one million adult drivers in this State, without one word on your action. That was a request that was in the Department of Insurance since 1977, and was refused by your predecessor every single time that request was made. And, it was in every filing, so the fact that it appeared in the filing when you granted the increase, has nothing to do with the substance that you granted it. The fact that you refused to tell the people of this State what you did does not excuse it. The fact that an investigation by a reporter -- and, when he interviewed the people at ISO, they told him of the changes, not anyone in your Department. That is how that got in the newspaper. And, when Dean Gallo was called by me and informed of this outrage, he said he wanted to "soft-pedal it." He said, "Mike, let me call the Commissioner and ask him to rescind the order," and I said, "Dean, I would rather have it that way; go ahead." And, he called you, according to Dean Gallo -- he called you on the phone and spoke to you, and you refused to rescind the order. Dean Gallo called me back and told me, "Mike, whatever you have to do to rescind that order, I will support." This is the Republican Minority Leader.

I had a letter hand delivered to you, sir, to your office by Spiros Caramalis. After you read the letter, I spoke to you on the phone and I said, "Commissioner, would you rescind that order?" and you, sir, said to me, "I have to check with the Attorney General's Office, because I don't know if I have the power to do it." I said, "Fine," and you said, "Call me back and I will let you know." Or, I apologize, you were going to call me back. That's what it was, but you didn't. I waited several hours, and then I called you, sir, and you got on the phone and you said, "I was just about to call you, but I just got the Attorney General's opinion." I said, "What was it?" "He said it was unclear whether or not I had the power to rescind the order." That was your statement to me on the phone. Then I said, "Commissioner, what does that mean?" and you said, "Well, it speaks for itself." I said, "Well, does that mean that it is going to stand?" and you said, "Yes." I said, "It is not, but thank you." And, that was the end of our conversation.

Following that conversation, I came to my good friend, Assemblyman Louis Kosco, and told him exactly what I am telling this body publicly, and Dean Gallo confirmed every word of it, to the best of his knowledge. We introduced a resolution calling for the public hearing to investigate that situation. When the resolution was passed unanimously in this house, I, sir, called ISO in New York and read the resolution to them over the telephone. They said they were not aware that this was causing such a controversy. I said, "Well, when the Commissioner of Insurance increases the rates of one million adult drivers, no matter what his intentions may be, to lower some others" -- as Assemblyman Kelly, who is not here, pointed out today-- For five years, I have had bills in that our good Governor finally signed, that will totally go into effect on January 1, 1984, that reduce the rates a lot more, and a lot more equitably, than the ISO filings did. When I sat there, and these good people from ISO, after I read the resolution, called me back and said, "Assemblyman, can we meet with you?", I said, "I invite you to call me." They are not lobbyists; these are the corporate people. I invited them to the highest rated territory in Newark, and the price for coming to Newark was to drive around the Forest Hill-North Ward section of Newark. The

only thing I heard all day long was, "Can we buy a house here? It's beautiful; we never knew Newark was like this." And, after I bought their lunch at Nanina's in the Park, they decided to take the suggestion I made that they ask for the rescinding of that order back to their people. They called me the next day, or the day after, and they said, "Assemblyman, we know how hard you have been working on this," and I must say that ISO, from day one, while they may have disagreed on some of the things we were doing, has been totally cooperative, totally honest, and of the highest integrity, and they proved it again by asking you to rescind the order, which you did the following day.

Now, that is what happened, and if you would like to respond to anything I have said, I would be delighted to be corrected.

COMMISSIONER MURPHY: I certainly would. In the first place, as pointed out, this filing you speak of which I approved on January 7 -- the whole filing had been in your hands for a number of months, not only it, but also a summary of the file. You were made fully aware of that. Is that not so?

ASSEMBLYMAN ADUBATO: Of the filing, yes, sir.

COMMISSIONER MURPHY: And of a summary thereof?

ASSEMBLYMAN ADUBATO: Yes, sir.

COMMISSIONER MURPHY: That is true?

ASSEMBLYMAN ADUBATO: Yes, sir.

COMMISSIONER MURPHY: Okay. Number two, when you called me as you did, you asked me to roll it back.

ASSEMBLYMAN ADUBATO: Wait, wait, wait, let's go back to Dean Gallo's call first. Did Dean Gallo call you?

COMMISSIONER MURPHY: Yes, Dean did call me.

ASSEMBLYMAN ADUBATO: Did he ask you to rescind the order?

COMMISSIONER MURPHY: Yes, yes he did.

ASSEMBLYMAN ADUBATO: Okay. And you refused?

COMMISSIONER MURPHY: Well, now wait a moment. I said to him the same thing I said to you when you called me.

ASSEMBLYMAN ADUBATO: Oh, I'm sorry; that is not what Dean Gallo told me. Dean Gallo told Mike Adubato that you refused to do it. I apologize. I can only go by what he told me.

COMMISSIONER MURPHY: No, no, wait a moment. I did indicate to him that I was not inclined to do it, but when you called me I said there was a threshold question.

ASSEMBLYMAN ADUBATO: Pardon sir, what question?

COMMISSIONER MURPHY: A threshold question as to whether or not I had the power to rescind a rate which was already in effect without a hearing. I talked to the Attorney General about that, as you stated.

ASSEMBLYMAN ADUBATO: By the way, I never got that in writing from the Attorney General. I requested it several times from your office. Who was the Attorney General you spoke to?

COMMISSIONER MURPHY: John Hayden.

ASSEMBLYMAN ADUBATO: You spoke to John Hayden.

COMMISSIONER MURPHY: Yes.

ASSEMBLYMAN ADUBATO: Would you please have John Hayden, sir-- I mean, this has been since the early part of January, and I am still waiting for Mr. Hayden to send me a written report on your phone conversation. I don't want to push this, but I still haven't gotten it.

COMMISSIONER MURPHY: Well, that is a matter between you and Mr. Hayden.

ASSEMBLYMAN ADUBATO: No, sir, it is between you and this Committee.

COMMISSIONER MURPHY: No, sir, it is not.

ASSEMBLYMAN ADUBATO: Did you request this of Mr. Hayden?  
COMMISSIONER MURPHY: I did, and I will tell you what he told me.  
ASSEMBLYMAN ADUBATO: Did you request a written opinion?  
COMMISSIONER MURPHY: No, I did not.  
ASSEMBLYMAN ADUBATO: Well, I thought you said you were going to give me that. I'm sorry; I misunderstood you.  
COMMISSIONER MURPHY: No, it was an opinion over the telephone.  
ASSEMBLYMAN ADUBATO: Yes, and I asked for confirmation in writing.  
COMMISSIONER MURPHY: I do not recall that.  
ASSEMBLYMAN ADUBATO: Oh, I apologize then. I thought you knew I was waiting for that.  
COMMISSIONER MURPHY: I don't recall that, but in any event, let's pursue that for a moment.  
ASSEMBLYMAN ADUBATO: Go right ahead.  
COMMISSIONER MURPHY: He said that it was unclear, or words to that effect. I, as a lawyer, felt I did not have the right and, incidentally, I think we should put on the record too, that during these conversations you assured me that you had no quarrel with the 7% increase.  
ASSEMBLYMAN ADUBATO: Absolutely none.  
COMMISSIONER MURPHY: You have none. That's right, sir.  
ASSEMBLYMAN ADUBATO: Absolutely none. I thought that was your prerogative, and you have the facts better than I do and, while I may not like it, and I said it on this floor--  
COMMISSIONER MURPHY: (interrupting) You had no objection to it.  
ASSEMBLYMAN ADUBATO: I said, "While I may not like it, I'm not criticizing the Commissioner for the 7% increase."  
COMMISSIONER MURPHY: That's fine.  
ASSEMBLYMAN ADUBATO: Did I say that on this floor?  
COMMISSIONER MURPHY: That's true, but I wanted that to be on the record.  
ASSEMBLYMAN ADUBATO: Fine, put it on the record.  
COMMISSIONER MURPHY: As a matter of law, I think it is a very serious question whether I could have acted. Now, I won't tell you that I was not inclined at that point to disapprove that rate increase anyway, because it seemed to me that this was the logical thing to do in view of what ISO was doing in other states, and this was an advancement of that program, and in view of what A-1696 will do come the first of next year. On the other hand, when they came to me and asked for its withdrawal, as I put in my statement, I acceded, and they withdrew it, and that ended it.  
Now, of course, one of the results of that, which Mr. Kelly brought out on Monday, is that in districts such as your own, younger people, young drivers and senior citizens are currently paying considerably more than they would have under that revised filing.  
ASSEMBLYMAN ADUBATO: How about the people in the suburbs?  
COMMISSIONER MURPHY: They are paying less.  
ASSEMBLYMAN ADUBATO: Wait a minute. How about the million adult drivers in the suburbs whose rates you wanted to raise, to reduce the rates for the people I have been fighting for all these years, and I accuse that filing of being a smoke screen, because you know, and Mr. Cooper knows, and I know that Assembly Bill 1696 reduces the rates of teen-age drivers in the City of Newark as much as 40%.  
COMMISSIONER MURPHY: That's right.  
ASSEMBLYMAN ADUBATO: So, how does that correspond to what you did? What is the percentage of rate reduction that those young people would have had? You said substantial. Do you know what it is, relating to the 40% that Assembly Bill 1696 does? How dare you compare that filing?

COMMISSIONER MURPHY: What do you mean "compare it?" That doesn't go into effect--

ASSEMBLYMAN ADUBATO: And, you did it on the backs of one million good drivers in the suburbs.

COMMISSIONER MURPHY: Look, you're obfuscating this.

ASSEMBLYMAN ADUBATO: No, I'm not; I'm telling you the truth.

COMMISSIONER MURPHY: Assembly Bill 1696 goes into effect January 1, 1984. This would have taken effect on January 7, this year, so in that interim period these people are paying more money.

ASSEMBLYMAN ADUBATO: I think it was January 10 it went into effect.

COMMISSIONER MURPHY: Well, whenever it was.

ASSEMBLYMAN ADUBATO: I think you issued the order on January 7, on a Friday--

COMMISSIONER MURPHY: (interrupting) I don't care. These people--

ASSEMBLYMAN ADUBATO: And, it went into effect on a Monday.

COMMISSIONER MURPHY: These people in your district are paying more money.

ASSEMBLYMAN ADUBATO: The people in my district are finally going to get accurate relief, you're right. But, you know, I want to conclude this portion by saying to you the fact that the Public Advocate, the Chairman, the people, your press release -- the fact that I asked for that filing -- is that the way I got the filing, or did you present it to me voluntarily? Did I ask for a copy of the ISO filing, or did you just send it to me automatically?

COMMISSIONER MURPHY: No, you asked for a copy of it.

ASSEMBLYMAN ADUBATO: All right. Have you ever sent me a filing that I did not ask for?

COMMISSIONER MURPHY: I don't know; I don't think so.

ASSEMBLYMAN ADUBATO: You have not. Well, ask Morgan Shumake, he's sitting behind you.

MR. SHUMAKE: Pardon me?

ASSEMBLYMAN ADUBATO: Have you ever sent this Chair a filing without it being requested by us?

COMMISSIONER MURPHY: (continues to answer) Well, I do not realize your role in the rate-making process, quite frankly.

ASSEMBLYMAN ADUBATO: You never did. Have you ever sent us a press release until we put it in writing? I asked Mr. Hooper, and I asked you, for months. I called Mr. Hooper on the phone several times; he is a delightful person to talk to, and I mean that. I am not being facetious. But, for the life of me, I cannot understand why a simple request for copies of the press releases were never sent to us until we put it in writing. We finally got them all, six months after we asked for them. The day we first asked for them is catalogued in our diary.

MR. HOOPER: May I say something?

ASSEMBLYMAN ADUBATO: I'm sorry, Mr. Hooper; let me finish. I apologize, but let me finish, Mr. Hooper. The important thing is that that press release went out and was given to the Public Advocate, and here is a copy of the press release talking about the 7% increase. There is not one word in here. Vince Zarate from the Star-Ledger found out about those changes, and not from your office. He found out about them from ISO. The Public Advocate said he saw this press release, but he had no knowledge that you had implemented the class change, and he is going to testify next.

COMMISSIONER MURPHY: Fine.

ASSEMBLYMAN ADUBATO: And, that is the charge -- that you did it without notifying the people. There is a definite pattern in your office of not understanding why you are there. That is the problem.

COMMISSIONER MURPHY: We understand exactly why we are there.

ASSEMBLYMAN ADUBATO: Would you tell us?

COMMISSIONER MURPHY: I will stand on my statement as I submitted it on Monday, and that is not to be distorted.

One other thing while we are here, you talked about this press release and asked me when we got it out. This was at the beginning of the meeting this morning.

ASSEMBLYMAN ADUBATO: Yes, sir.

COMMISSIONER MURPHY: We got this out at the same time we filed our statement with you. This is merely a comment on what is in my statement.

ASSEMBLYMAN ADUBATO: Oh, it was not a comment then on what happened on Monday?

COMMISSIONER MURPHY: Of course not, how could it be?

ASSEMBLYMAN ADUBATO: Well, wait a minute. I don't understand that. You know, I'm not a press person, and I am not as smart as--

COMMISSIONER MURPHY: (interrupting) This is a release based upon my statement.

ASSEMBLYMAN ADUBATO: Wait a minute, forgive me, sir. I accept that. I am not a press person. I am not a press person, but I think you issue press releases based on facts, based on what you do. That press release was written, by your words, on Friday, the weekend before the meeting, and you submitted that press release on the Monday indicating what happened in this chamber.

COMMISSIONER MURPHY: It merely said what I have said.

ASSEMBLYMAN ADUBATO: Forgive me, sir. Forgive me; don't interrupt me. You're out of order. Now, if the press is going to write their story based on a comment on the Friday before the meeting takes place and, by the way, they did print part of your press release, unfortunately-- I don't know where they were, some of them, but that is their problem and their conscience, not mine. The point is, sir, you have every right to issue a press release on the weekend before you give testimony. That is your privilege. I am not criticizing that. I am just saying I would never do it, because I do not think it is fair or reasonable or rational. That is my opinion; it's only an opinion.

Assemblyman Kosco, do you have anything you want to talk about?

ASSEMBLYMAN KOSCO: No.

ASSEMBLYMAN ADUBATO: Commissioner, I want you to know, and I mean this, we do appreciate you spending all this time -- all day Monday just about. We've gone twelve minutes past twelve and, for the record, Commissioner, I honestly think that if I was working with you in a company, that you and I would get along fantastically. I really believe that. I think you are a heck of a taskmaster, and I think you are a tough guy, and I think you are a decent guy. And, I am not saying this to be cute.

COMMISSIONER MURPHY: Thank you.

ASSEMBLYMAN ADUBATO: I also want you to know that when you came here, you were what New Jersey needed when you came. I say that for the record. I was glad you were here, because I think what you provided was sensitivity. You corrected a lot of the ills. You made it easier for us to communicate with the industry, which we needed desperately. This is my belief, and I have to tell you the good side, and it's true -- my truth, my facts. It doesn't mean it's "true, true." To me it's true. And, I want you to know that for whatever reason -- I don't know what the reason is, and I don't know why we have not been able to get you to understand, in a nice way, that this is not a company, this is a government, that here we are, as you said, in a fish bowl, and here we are primarily responsible for sharing information, not necessarily answers, but information. I'm not giving you

any pat on the back that you don't deserve, but I am as quick, I hope, to give a justifiable compliment as I am quick to criticize, and I hope you accept it, not as a smoke screen, not as someone who is trying to -- you know, going through all the bitter words sometimes that we have gone through in these two days -- not as a cop-out, because it is not. I am not doing this for you; I'm doing it for me, for my conscience, my fairness, because I believe everything I have just said in the last forty seconds, just as I believe everything I said in the last two days, whether you agree or disagree with me. And, I hope you believe that I have not said anything I do not believe. I may be wrong in some of the things I said; I'm not perfect either. I don't know who is. But, I did not make one statement in these two days that I did not honestly believe to be fact and, if I didn't believe it, damn it, I never would have said it, whether I'm right or wrong. And, you know something, I think that is you, in a lot of ways, whether you are right or wrong, but you say what you believe. That is something I am not criticizing.

I want you to know that as one decent human being, as I hope I am, to another decent human being, that in spite of the heat and sometimes the-- You are not the ogre. I may have sounded that way to you, but you are not the ogre. You never will be. You have been a service to this State, and I just think you could have been a lot greater service, a lot greater service if maybe you had an opportunity to understand us a little better, before you were thrust into this position, because from a business standpoint you didn't need that exposure, but from a governmental standpoint, I really, honest to God, think you needed it. And, I don't blame you; I think it was unfair to you. I honest to God think it was unfair to you and, not only that, but my wife and kids think you are a heck of a good Irishman.

Commissioner, thank you very much for coming, I really mean that. Thank you all for coming. Anybody that thinks I am corny, I am, but I believe everything I say. Commissioner, I would like to shake your hand.

COMMISSIONER MURPHY: Thank you very much.

ASSEMBLYMAN ADUBATO: And, thank you for your patience. I know that is not a good story for the press, gentlemen, but that's me. Senator Laskin-- Commissioner, Commissioner -- is the Commissioner gone?

MR. CARAMALIS: No, he's here.

ASSEMBLYMAN ADUBATO: Ask him if he can come in for five minutes, please. I apologize. (Commissioner Murphy returns to room)

Commissioner, in the spirit that we left of working together, and everyone entitled to different ideas, I respect very much Senator Laskin coming here, because I know Senator Laskin to be an outspoken man, a man of integrity and a man, in simple words, who calls it as he sees it. And, I want to thank him, even though this is an Assembly hearing, for accepting the invitation to come here to share his views with this Committee. Before he says anything, whatever he says, whether we agree or disagree, I want you to know I respect him very much for coming here, and that is important. Thanks an awful lot. Senator Laskin.

SENATOR LEE B. LASKIN: I am going to get right to the point, because for two years I have been listening to this no-fault reform and the threshold and the insurance companies and the lawyers. About an hour ago--

ASSEMBLYMAN ADUBATO: I'm sorry, Senator, they can't hear you.

SENATOR LASKIN: About an hour ago, you made the comment that you do not have the answers, and that you don't think anybody has the answers, and that is why you are working so hard to solve this problem. Well, I am going, in my usual egotistical way, to tell you that I think I have the answer. I think the answer is so obviously simple--

ASSEMBLYMAN ADUBATO: Senator, forgive me. We do have the answers, but we don't want to admit it. But, we'll listen to your answers.

SENATOR LASKIN: Oh, all right, okay. I think the answer is so obviously simple that a lot of people, including you up there, and us out here, have had knots in their stomachs for about a year and a half wondering why we do not see the obvious.

As you indicated before, there are now only fifteen no-fault states in the country. There were seventeen. Two of them threw the systems out and went back to the old fault system. Most of the no-fault states came into being around the early and middle '70s when it was the thing to do. Since then, there has not been this drive to go to no-fault, because the no-fault system has not worked. Why am I here? To beg you, and those in the Administration who may hear me, that the simple, obvious solution is scrap this system and go back to the fault system that thirty-five other states have, and fifteen do not have, and my guess is that the majority of the fifteen will soon go back to the fault system, as two have already done.

The system doesn't work. What is no-fault? No-fault, and you'll pardon me for being overly simplistic, but for people who have been listening for two years about all these insurance words, we do not understand about thresholds. We do not understand about ISO and PIP and all that other stuff. The no-fault system, very simply, says that you and I -- we -- pay a premium for somebody else's fault. That is what the no-fault system is all about. I pay a premium to protect me from the negligence of somebody else. The system is goofy in its conception. The theory makes no sense and, overly simplified as I have just done, so the average person can understand it, it makes even less sense. We are paying the highest premiums in the country because what we are saying is, "If somebody else does something to me, I am going to pay what he should be paying." That is all that no-fault is. Scrap this system, and I am going to give you a good reason why.

We, in the Legislature, are supposedly concerned about the high cost of insurance. We are also concerned with adequate and proper insurance coverage. Of the thirty-five fault states-- I want to give you a statistic and if you ask me to back it up I can, because I am one of the few who is not afraid to say that when I do talk it is based upon facts. If that sounds egotistical, so be it. But, you are not going to hear anything from me that I can't back up. The average premium that we will save, based upon the fault states' and the no-fault states' average is 50% -- 50%. Our premiums on the average in New Jersey will be lowered by 50%, if we go back to the fault system and eliminate the no-fault system. And, I will show you dollar amounts for every state in the country, as I am sure the Chairman of this Committee already has. Now, that is the first thing, and that is the easy thing to do, and I really do not think anyone would argue with that -- insurance companies, lawyers, consumers, legislators -- I really do not think they would.

Now, in addition to that, you clean it up a little bit. There are some little things that ought to be done that I never hear anybody talk about because I guess -- well, I'm not going to say that -- but, maybe there is a fear of losing some votes from some groups. There should be some things that we do, even if we do have a fault system. We should institute arbitration. I heard Chairman Adubato talking about Philadelphia, Pennsylvania. They have a system of arbitration which says that if the claim is \$10,000.00 or under -- by the way, about 85% or 90% or even more of the actual lawsuits are settled for \$10,000.00 or under-- I don't care what you file in your complaint, if you ask for millions, but they are settled for \$10,000.00 or under. Pennsylvania has an arbitration system which says if you have a \$10,000.00 claim or under, you don't go to the courts. You don't clog up the system, because in addition to high premiums, there are indirect disadvantages. You don't clog up the court system with the average lawsuit.

You go to arbitration if it is a \$10,000.00 claim or under. What does that do? It expedites the resolution of the claim, because the arbitration procedure moves along in a matter of months, whereas the court system can be two or three years. So, that is what should be done, no matter what system you have.

The next point is--

ASSEMBLYMAN ADUBATO: Senator, may I interrupt? I want you to continue, but on these points--

SENATOR LASKIN: I have three other points.

ASSEMBLYMAN ADUBATO: I'm sorry; go ahead, Senator.

SENATOR LASKIN: The next point is the kickback system. Does that bother you? I don't mean you personally. There is a tremendous kickback system which also drives up the premiums. When you go to buy a car at an automobile dealership, I'm going to tell you that a lot of salesmen, and I don't know if they are yours or mine, but, in the industry, salesmen will steer a car buyer to a particular insurance agent or company, in return for which he illegally gets a kickback. We can call it a "commission," but it is a kickback. Now, that is prohibited by the regulations of the insurance company, but it is not prohibited in criminal law. That is where the change has to be made. If you make it a crime, people will worry about it. If you make it a regulation, nobody is going to worry too much about it, so you will have kickbacks to the automobile salesmen. You also have kickbacks when people are steered to collision shops. That ought to be prohibited in criminal law. If I have an accident, I don't want my adjuster to say to me, "Lee, go to collision shop 'A,'" because if I go to collision shop 'A' that adjuster is going to get a kickback from that collision company. That also drives up these premiums. That ought to be illegal in the criminal law, not just by regulation. That is another cleanup point that ought to be made. There ought to be a schedule of body shop charges. The Commissioner, I know, is very familiar with Chilton's Manual, which happens to be a standard in the industry. Chilton's Manual sets forth the repair cost, and the hourly wage cost, for every conceivable item. Our Commissioner of Insurance -- his Department -- ought to promulgate a schedule of costs for body repairs, so that if you are insured and you go to a collision shop to have your car repaired, they cannot charge more than the schedule. That would drive the costs of repairs down, and would also drive the premium down.

There are so many little, obvious things that we could do, but we have spent two years talking about insurance companies versus lawyers, and back and forth. These things are so obvious. You could clean up the system in a week, and our insurance premiums would be the lowest in the United States if you enacted these so-called reforms.

I think I have talked enough; I said five minutes, but, Commissioner, you can blame me for dragging you back, because I really wanted you to hear--

COMMISSIONER MURPHY: We're interested.

SENATOR LASKIN: (continuing) what I wanted to say. Chairman Adubato very nicely took the blame when he said he would get the Commissioner back. I want you to know I wanted you here to hear these ideas. I am so sick and tired of two years of this nonsense. These are obvious solutions, let's do them, and I think you will agree. Thank you very, very much.

ASSEMBLYMAN ADUBATO: Do you have a moment, Senator?

SENATOR LASKIN: I've got all the time in the world.

ASSEMBLYMAN ADUBATO: I would like to-- I know Assemblyman Thompson wants to discuss an issue with you that I just want to point out for the record. We have all served for different lengths of time, and I was not here either in 1972, but I have had an opportunity, because I have been on the

Banking and Insurance Committee now for ten years, so you know there is a reason why I have had an opportunity to learn -- when you are thrown into the water, even if you don't know how to swim. Hopefully, I didn't go down three times.

SENATOR LASKIN: Well, it is obvious that you didn't.

ASSEMBLYMAN ADUBATO: Thank you, Senator. That was very nice. Anyway, in 1972, the original no-fault law had a provision, suggested by Assemblyman Tom Deverin, that called for a \$5,000.00, and don't forget, we're talking about the monetary values at that time -- called for a \$5,000.00 limit for lawsuits, that they would have to go to arbitration. That bill, unfortunately, was never released by the Banking and Insurance Committee. It was never considered by the Banking and Insurance Committee. And, not only under a Republican Administration wasn't it considered when it was instituted, but it was never considered under the Democratic Administration after that. It got lost in the shuffle somewhere along the line.

ASSEMBLYMAN KOSCO: I just said I wondered if he wrote letters.

ASSEMBLYMAN ADUBATO: I don't know if he wrote any letters, but I found that out in our research. So, I want you to know--In the time we have spoken, I think you have become aware that this Committee's main purpose is to try to clear the air and to deal, hopefully now, instead of being under under a gun, under a threat, to deal in a climate that is responsive to the needs of the people in this State in a way that is going to be meaningful, and not because you are pressured into doing something you do not believe in. It should be done with cooperation, as much as possible, with the Executive Branch of government. It should be done in cooperation, as much as possible, with the industry.

SENATOR LASKIN: I gave you the answer, Mike.

ASSEMBLYMAN ADUBATO: And, your answer, quite frankly -- some things in your answer -- I agree with. There are some things in your answer that I do not agree with, and I am not going to go into, you know, pluses or minuses. But, I want you to know, and I think you may already suspect -- but, I want you to know that this Committee, hopefully in cooperation with the Senate, which we should cooperate with, but this Committee, and this Chair, will have a complete package of bills taking in some of the Administration's position, and working with them, and keeping with the Speaker's and the Governor's wishes, to get this all behind us as soon as possible. And, I want you to know that this Committee, in a joint effort, bipartisanly, is going to do that as a first priority. If we fail in a bipartisan way to do that, I commit to you that I will have a package of bills that will be presented by this Democratic party, that will address totally, that will pass this house, in my opinion, might pass the other house, but I can almost guarantee you, and I can't guarantee anyone's vote but my own, so don't misunderstand me-- What I am saying to you is that this State will have a complete package of bills that addresses the total problem in surgery, because that is what you are talking about.

SENATOR LASKIN: That's right.

ASSEMBLYMAN ADUBATO: You are not talking about milk, toast and cough syrup.

SENATOR LASKIN: No, total reform.

ASSEMBLYMAN ADUBATO: You're talking about surgery, and I promise you that this Committee and this Chair have been working daily, not just sitting here at these public hearings -- daily -- with all interested parties -- all interested parties.

SENATOR LASKIN: Do you want to get the Commissioner to respond? Does he agree with what I said?

ASSEMBLYMAN ADUBATO: Oh, no, he doesn't have to respond to anything.

SENATOR LASKIN: That's why he's here.

ASSEMBLYMAN ADUBATO: In all due respect, Senator, if the Commissioner wants to respond, that's fine with me. I certainly would not restrict him. But, in fairness to the Commissioner, you know, this is a public hearing.

SENATOR LASKIN: Oh, no, I knew that you wanted him to hear me. That's why I said that.

ASSEMBLYMAN ADUBATO: Oh, yes. If the Commissioner wishes to respond, I'll entertain it, but I am not going to ask him to respond, if that is okay. I would rather not ask.

SENATOR LASKIN: Right.

COMMISSIONER MURPHY: I am delighted to have heard your remarks.

ASSEMBLYMAN ADUBATO: I think the important thing is that the remarks are on the record. But, Assemblyman Thompson would like to ask you a question.

SENATOR LASKIN: Oh, sure.

ASSEMBLYMAN THOMPSON: Senator Laskin, your comments were very good, and certainly will be considered. I think you left one thing out, though, and that is a statute that would require the licensing, the mandatory licensing of body mechanic shops. An FBI report in 1981 pointed out that 50,523 cars were stolen in New Jersey. Where do they take these cars? They either take them to New York or they take them somewhere in New Jersey, they cut them up, they usually change the identification of the cars, and they resell them on the market. I think, unless we have some type of mandatory licensing of body shops, the schedule of fees doesn't mean anything. It may mean something, but--

SENATOR LASKIN: (interrupting) Assemblyman, I want to say that in my sloppy handwriting-- There was only one reason I didn't mention this, and that is because I didn't see it.

ASSEMBLYMAN THOMPSON: Oh, okay.

SENATOR LASKIN: Registration and licensing of all automobile repair shops is also on my cleanup list, in addition to the kickbacks. I agree with you that that also should be part of the system.

ASSEMBLYMAN ADUBATO: Senator, I want you to know that the Assembly released at its last session five bills dealing with auto insurance and cost containment, one of which was the labeling, or the marking of parts. They are over in your house.

SENATOR LASKIN: Labeling -- do you mean the right to know? We have enough problems.

ASSEMBLYMAN ADUBATO: No, no, what I meant was the stamping in Detroit of the parts, along with the fraud bill we already passed, which is in your house, okay? And, I would also say that the phrase you used -- if you don't mind me saying this-- Several times you commented on your personality, and called yourself egotistical. Senator, I do not think you are egotistical; I think you are honest, I think you are forthright, but I certainly would not call you egotistical -- if you don't mind me saying that to you. Again, thank you for coming.

SENATOR LASKIN: Thank you.

MR. CARAMALIS: Are you going to break?

ASSEMBLYMAN ADUBATO: No, we are not going to break. I apologize to Public Advocate Joe Rodriguez. I know he had other engagements; he went back and forth. I know he has a brief statement. Commissioner, I apologize, I really do.

COMMISSIONER MURPHY: (addressing Mr. Rodriguez) Joe, would you excuse me if I leave?

COMMISSIONER RODRIGUEZ: Sure.

COMMISSIONER MURPHY: Would you send me a copy of what you are going to say?

COMMISSIONER RODRIGUEZ: Well, I can tell you what I am going to say.

COMMISSIONER MURPHY: All right.

ASSEMBLYMAN ADUBATO: Commissioner, may I respectfully request that Morgan Shumake or someone else from your Department remain in the room?

COMMISSIONER MURPHY: Yes, I am going to arrange that.

ASSEMBLYMAN ADUBATO: I would appreciate it very much. I would like to have someone from your Department here, at least to hear what is going on. Warren, are you staying? (inaudible response) Okay.

Commissioner Rogriguez, I want you to know that now that we have had an appointment in New York State, I still consider you the highest ranking Hispanic in America, in spite of that appointment.

COMMISSIONER JOSEPH H. RODRIGUEZ: Well, I appreciate that. I do not think that opinion is universally held by a lot of people.

I am here at your request, Assemblyman, to attempt to respond in areas in which I feel sufficiently competent on this issue. I have brought along with me Jasper Jackson, who has been the attorney directly involved with all of the matters, and would have all the details. I plan, of course, to leave him here to respond more specifically to some of the questions.

I guess if I have to make a statement, or give my impression of what is occurring, what I have recently done is, I have commissioned within the Department of the Public Advocate a total study of what we feel should dictate the policy positions of the office, because what I see occurring is that there are three factors involved, and the three factors have a tendency to polarize the discussion, so that it is difficult to get clearly to the issues that should be addressed in total reform. Let me simply put it this way. Whatever the debate is with respect to the threshold, and I heard a lot of interesting conversation here this morning with respect to the threshold itself, I think the threshold is essentially misunderstood. If, in fact, the concept is to remain, it has to be readdressed to make it more legitimate within the total package. I do not think the threshold, in and of itself, is any answer to the problem.

The no-fault itself is also a problem, because the no-fault is a system almost out of control. No matter what you try to do with respect to premiums, the driving force of the premium comes from the handling of the threshold and the handling of no-fault, because, in effect, you have two systems that are pressurizing the premium. They both have to be addressed, and I think they have to be addressed with containment in mind, because that is the only way you can truly effect savings. Simply to put third-party money, insurance company money, on the table and make it available to a system, only causes upward pressure to the premium. So, two problems have to be addressed. Surrounding those two problems there shouldn't be any question of the fraud bills. It is my opinion, that what we are dealing with here -- as the Advocate, as the Legislature, as the government -- are fiduciaries to a system that is dealing with taxpayers' money. Our first responsibility must be to them. Therefore, the system is in place; you surround it with fraud legislation. If a lawyer frauds the system, and I would suggest that if we know the extent of the fraud we should be dealing with it now, but if, in fact, there is fraud, the lawyer should lose his license. If, in fact, the doctor abuses the system under no-fault, he should lose his license. If the collision carrier abuses the system and continues the upward pressure on the premium, he should be boarded up. That is saying it as clearly as I can. But, that is only two parts.

The third part must be a reanalysis of the way the premium is constructed, so that as a matter of State policy we understand the construction of the premium, and either agree or disagree, but know. Therefore, what would occur is, we would have an understanding of the construction of the premium. To that regard, we have preserved with the Commissioner of Insurance the issue that we call the global issue. Let's look to see the way the premium is constructed, and that includes the whole host of problems with respect to the investment credit, and everything else. Look to the premium. My fear is, if we solely attempt to address the construction of the premium, without addressing the system, the upward pressure is going to continue. If we have confidence in the way we have constructed the premium, and it continues with the upward pressure, then we know it is the system that is responsible.

Now we have three parts working against each other, no one part wanting to sacrifice itself, because it knows it is not the total answer to the three-part problem. So, what we need -- what I would like to have very soon -- is a total comprehensive study of how the three parts should interact. Then we will know it is the construction of the premium that is causing the problem. It is not the construction of the premium, because we have agreed, as a matter of State policy, how it is to be constructed. It is the system that is causing the problem. Then at least we will know how to address it very aggressively, and the end result should be a total benefit to the ratepayer who is sitting out there, looking at us and demanding from us one thing, fidelity in the construction of the premium, and the system, because then if, in fact, we are confident in addressing the three parts that it demands because of, say, the density of the State, a certain level of responsibility, then at least we know that is what we are paying because we are in a dense State. But, let's be sure. And, I think we could only be sure if we take that kind of an approach. That is the approach I am now trying to take through our Department.

ASSEMBLYMAN ADUBATO: Commissioner, I want you to know I was very elated-- Let me just say this before I get into some questions I have. I was personally elated when you were appointed as Public Advocate. While I had no decision in the process, if I did I certainly would have been a person totally in favor of it. What I'm saying is, I think Governor Kean made a very good choice for Public Advocate, for many reasons. Your background -- I am not going to get into the whole thing -- speaks for itself. Your integrity and your honesty have always been there, and always will be there, I know that. I want you to know that you have cooperated with this Chair and with this Committee as much as any human being could, in my opinion, with your straightforwardness, and with your openness. Even with the fact that we have had some philosophical, at times, maybe, disagreements, you and I never seem to get disagreeable with each other, which is the way I like to function, to be able to disagree with a person, but not become disagreeable. I thank you for that.

In your statement, and in talking to you through the years, do you agree that it is necessary to have disclosure in the system?

COMMISSIONER RODRIGUEZ: I think disclosure is necessary because it is through disclosure that you build the confidence of the public which is responding with their money, that the State has acknowledged the way the formula is to be constructed, and that it is being constructed fairly.

ASSEMBLYMAN ADUBATO: There are some popular things happening in our nation, and in other states -- on a state level and on a Federal level -- such as addressing discrimination which exists in our system as it applies to automobile insurance, specifically dealing with marital status and sex discrimination in our system. Would you favor removal of those two criteria

as determining the rate -- the marital status and the sex of an individual? I am not talking about the age; I am not talking about the territory; I am not talking about all the other classes. I am only talking about two specific things, the sex and the marital status. Would you support those things as being things that would make the system more fair if we eliminate them from the system?

COMMISSIONER RODRIGUEZ: We are presently in litigation seeking to remove that kind of classification, because here's--

ASSEMBLYMAN ADUBATO: (interrupting) I know that, but I wanted it on the record.

COMMISSIONER RODRIGUEZ: (continuing) the answer that I would like to be able to give you very clearly at the end of our study, that with respect to sex, getting away from the traditional discriminatory classification no matter what area you take it into, that it should not be a negative factor for anyone, the fact of their sex. I think we are moving greatly in that direction in this State, and in this nation. But, what the study should say is, that it is not only discriminatory, but the reasons why. We can find it to be more discriminatory if we find that with respect to sex, perhaps many years ago, before the titled "liberation of women," if, in fact, their key responsibility and their key performance at that time was being a housewife, their necessary exposure in the risk market might have made sense and could very well have been legitimate. But, as they now interact in society, gaining more equality with men, the study should be able to tell us that as their driving intensifies, it then becomes almost the same statistics with men who are driving in the same intensity. So, then you will see that the sex should have nothing to do with respect to a rating system because it may not make a difference as equality sets in in a society. That is number one.

With respect to marital status, I think there are a couple of things that have happened that would indicate that if we were looking at traditional societies of years ago, married people indicated a class of more concerned, stable, family people with children. Perhaps it made sense then, but now as you bring that into present day, when we have statuses that are being acknowledged by our courts that do not necessarily require the ceremonial bond to give certain rights to women who have lived with men, and I daresay even in some cases women who have lived with women, we are finding that perhaps the ceremonial certificate is not the thing that should cause the difference in classification, but, again, the driving intensity of that individual, because in today's society there are many people who have very stable relationships, who do not have the ceremonial certificate. Therefore, you still have to look at the individual, his driving experience, which is really what we should be looking for. Now, the factual background, and the statistics to those statements, I would hope to have so clearly stated, that no longer should there be any doubt that what we are saying is, we are looking at the risk and exposure to the road, which should be the more legitimate class, rather than simply saying sex or marital status. So, in that context, not just to have given you a quick answer out of context, I think that what we are looking toward now, is that there is less legitimacy to that classification.

ASSEMBLYMAN ADUBATO: Now, Commissioner, one of the things my daughter asked me and, by the way, she did a very extensive report on auto insurance, and I was very proud of her-- I must say, not only did I learn from her report, but Assemblyman Kosco stood up on this floor, without knowing she was sitting behind him up in the balcony, and made the statement and held up her report, and he said, "You know, I have been listening to Mike for years, and I never knew what he was talking about. But, I read his daughter's report, and that's why I am voting for this bill."

So, you know, when you get rid of the jargon, and you deal and you communicate in a way that people can understand-- One of the things that outraged my little Lisa was, she found out that because she was a single eighteen year old, she was paying 20% more than if she were an eighteen-year-old girl who was married. I think that is incredible. I mean, I think that is incredible, that an eighteen-year-old single female attending the University of New Jersey -- I mean Rutgers -- would pay 20% more than an eighteen-year-old girl who was married. I'm not saying the eighteen-year-old person who is married is not responsible, but I certainly do not think the eighteen-year-old single girl is irresponsible. In fact, I would think the other way around in today's world -- that she is probably more responsible that she is not married at eighteen. So, I think the companies may be losing money charging the wrong people. I just bring that out as a little sideline.

Commissioner, how do you find the fact that we're dealing with several hundred thousand classes that determine a rate? You know, without going through the whole litany, I'm sure you have a concern about the 250,000 classes that are coming up, since you come from the background of a small class. You mentioned density before about New Jersey, which I think is very important. You mentioned the fact that -- more or less, you said that you can go across the State in such a short period of time that it is incredible. It is indicative of the fact that I don't know of any legislator who comes to the State House who stays here overnight, as they would do, say in New York or Pennsylvania. That is a point that shows how quick it is to travel from one place to the other. When coming down here on the Parkway, going through the Newark section of the Parkway, out by East Orange, you see very little traffic coming out of Newark coming toward Trenton, but they are stopped -- stopped, crawling, bumper to bumper, infiltrating like an army, into the Newark streets, you know, and congesting everything. These people who travel, maybe seventy miles, to get to Newark, no matter where they come from, and the person who maybe works in downtown Newark at Prudential or Mutual Benefit Life, or one of the banks, he doesn't take his car. He doesn't take his car. He hops a bus or he jumps in the subway, and yet he is being charged 1,000% more than some of those people who are doing all that traveling, causing all that congestion and everything else, and that is something that has bothered me from day one when I found out about it. It is incredible that the classes, that the territories, the twenty-seven territories, with the population shifts down in Ocean County -- and I like Ocean County very much -- but, when you look at the statistical data, the convictions of drunk drivers -- and I'm not talking about just the holiday season, I'm not talking about the summer months. I'm talking about the data that comes in December and January and February. I'm talking about all the trends that the industry has never taken the time to recalculate, or to look at those lines that were drawn by someone a half a century ago, and which have been left to remain that way with no one taking responsibility.

You know, these are the complex, yet simple analyses. When I talk about-- You brought out two things I don't want to lose about sex and marital status. They were brief, they were short, but they were concise, they were accurate, they were meaningful. I heard Assemblyman Kosco make a statement saying, "Gee, I never thought of it that way." And you know something, neither did I -- neither did I -- so you are not talking to us about kindergarten. I am going to make a commitment to you here and now, and I am not doing this on the spur of the moment. I have been taught about this; I have studied about this; I've conversed about this, but I will say that you have been the catalyst that has put me over that edge, and now have supplied the total conviction that I need.

I promise you that any legislation that bears our stamp of approval will eliminate sex and marital status as rating factors. Period, end of statement. I want to thank you very, very much -- very much.

ASSEMBLYMAN KOSCO: Mr. Chairman?

ASSEMBLYMAN ADUBATO: Yes, sir. Assemblyman Kosco would like to ask you a question, Commissioner.

ASSEMBLYMAN KOSCO: Just as an observation, you have not completed this study yet, right?

COMMISSIONER RODRIGUEZ: No.

ASSEMBLYMAN KOSCO: Okay. Just to play the devil's advocate, along with the public's advocate, supposing you said--

ASSEMBLYMAN ADUBATO: (interrupting) By the way, they do not relate. (laughter)

ASSEMBLYMAN KOSCO: A couple of times you said what the study should say, and my question to you is, have you come up with a bottom line and then determined to make the study show that? What would happen if, when you completed your study, it showed that there should be a difference between the married people and the unmarried people, and the sex? Then what would happen?

COMMISSIONER RODRIGUEZ: I would very honestly tell you, because my instinct is with respect to the risk factors. I gave it to you as an instinct, but I see it occurring that way. However, I think the statistics should show it, and not my conclusions. I do not mean to create the statistics, but what I also think we owe to the public, is the honesty that once we know how we want to create, say, the premium and the system, we should bite the bullet and not hold out to them that if we did all the right things we would be the lowest premium in the nation, but to legitimately tell them that in no way, no matter what we do, if we want to deliver services for the premium, could we drop below the top one-third.

Now, again, I am only saying that, the study is not complete, because if, in fact, legitimate factors, such as density, play a part, we cannot close our eyes to the fact that we are the most dense state, so we might as well acknowledge that that is one of the factors. That will then put us in a legitimate range where we know that what we are dealing with is either a premium construction or a system that has upward pressure for other reasons that could then be addressed.

ASSEMBLYMAN ADUBATO: For the record, let me point out that there are other states that have already eliminated sex and marital status in their systems. That is for the record.

ASSEMBLYMAN THOMPSON: Mr. Chairman?

ASSEMBLYMAN ADUBATO: Yes, sir.

ASSEMBLYMAN THOMPSON: Mr. Rodriguez, I would like to ask you one question. With reference to the remarks that Senator Laskin, the previous speaker, made, would you be in favor of the complete abolition of no-fault and returning to fault, especially dealing with the institution of an arbitrator, where you have a \$10,000.00 threshold in certain cases, where an attorney receives a per diem instead of a third, as set by this arbitration?

COMMISSIONER RODRIGUEZ: What you are now asking me for is what we would conclude after we made the study, but let me simply respond to you this way, not to duck it, as to what I see we have to get to. Number one, if you look at the threshold as being the answer to the problem by increasing it alone, and you acknowledge that you have two systems working together -- we have a no-fault system and we have a tort system -- by putting in arbitration for cases up to \$10,000.00, that matter is being handled. Now, if legitimately we say that there is not that much effect to the premium on the liability side, because of the nature of the way the premiums respond now-- Simply raising it, without a lot of controls within it where you now have the upward pressure of people to meet that threshold, is not the answer. Taking arbitration of \$10,000.00, if that is the majority of the cases, you will alleviate a lot of backlog and it should not generate the intensity that people view now in the legal system, although New Jersey, incidentally, has the most restrictive attorney fee schedule in the nation.

So, not only do we have the confusion, but we have the most restrictive fee schedule now, and we are still number one in premiums. So, that can't be the whole answer either. But, arbitration is certainly something that should be considered in the total system. It does this too, see-- Why I say containment, and why I made the original statement with respect to fraud, where the public has to be convinced that we are doing all we can to stop it, if the threshold were the only answer, raise it to \$5,000.00. If you don't have containment, and the pressure, without cross-examination and without exploration, has people pursuing that higher threshold, you now have almost two no-fault systems on top of one another. Do you see what I'm saying?

So, what you have to do is acknowledge what it is you want with the threshold -- containment.

ASSEMBLYMAN THOMPSON: In fact, you would have to--

COMMISSIONER RODRIGUEZ: See, acknowledge what it is you want with the PIP, Personal Injury Protection, containment, wrap it with the anti-fraud, and look now at the premium. I can't tell you exactly how they should all function, because I would like to do it with the facts from the study, but you see that it has three pieces to it.

Now, legitimately -- let's be totally legitimate -- if you have a system out of control, do you think the carriers, the insurance companies want you to really first grip the construction of the premium, when they know that if the system is out of control they are going to have to come back, and back, and back, and maybe build a lot of water into it, because you also have a systematic control? That might be a legitimate response, and that's why they are not responding, just hitting one or the other side of the problem, each side debates it, and can legitimately show you that that is not the only problem.

But, I say once, as a matter of State philosophy, you put in the system that you want and construct the premium, then whatever goes out of joint, or goes out of sync, you will be able to detect quickly, and address. But see now, we do not know what we are addressing.

ASSEMBLYMAN ADUBATO: Yes, but Commissioner, you know, I don't mean to be -- well, I guess I do mean to be-- When we talk about the cost of the product, and we look at the history of the system, whatever system, and every state, as we all know, has a different system, different features-- In New Jersey, talking about New Jersey, prior to no-fault coming into being, in the

years 1967, 1968 and 1969, we did not have any compulsory liability; we did not have any compulsory insurance; we had financial responsibility, and we had no threshold. New Jersey, in those three years, had a premium level that was constant. The deviation was not there; it did not deviate in 1967, 1968 and 1969. In 1970, across the board, the industry received a 26% increase in that one year, two years before no-fault was passed. It had nothing to do with a threshold or the lack of a threshold; it had nothing to do with any of those things, in my opinion. It primarily arose, based on the studies we've done with the help of many, many people, because the industry lost from their investment portion of premium -- you see -- their outside investments. It had nothing to do with claims, absolutely nothing to do with claims. It had to do with the fact that they were not getting a return on their investments that they were getting. So, they shifted that to the cost of automobile insurance because the market fell out on some good investments and, also, on some companies that had some bad investments, who were hurt even more.

When we talk about some of the companies that left here, and we talk about GEICO, for instance-- The media blamed GEICO's failure on the State of New Jersey. Until this day, people think GEICO failed in New Jersey because of New Jersey, and the facts are that GEICO was one of the most poorly managed companies in the entire automobile insurance industry in the nation. Fact -- it's a fact that the companies collectively lent money to GEICO to subsidize them, to bail them out. One of the criteria for that subsidy was they had to change all their management, and they had to stop going out and selling insurance under the market, and stop trying to be a glutton, and insuring too many risks without having the reserves to back up those risks. It had absolutely nothing to do with New Jersey. It had to do with the total climate, but most of all it had to do with their poor management practices. And, I want that on the record, and anyone here from the industry, or anyone else, I welcome you to help us and enlighten us if these are not accurate facts.

The system, as we call it, changing in New Jersey, and the panacea being the \$200.00 threshold, I agree with you that there are trade-offs for benefits for what you pay, but there are also things in the system, in the mythology, we use to determine a rate that bothers me, a lot. The only term I can use is the term I have learned, and that is the multiplicative method, with the additive garbage, on top of, on top of, that an actuary justifies without any scientific data, but because he says it -- he says it, and that's enough. Unfortunately, we have heard that testimony. I say it, that's it. I have no facts to back it up, but I say it. That's unfortunate. This is not a dictatorship. In our nation, when you do something and when you say something, you have to have facts to substantiate it; otherwise, you shouldn't do it. And, getting a title doesn't give you the right to do it. That is part of the problem.

You know, we have spoken, Commissioner, not from the standpoint of agreeing or disagreeing, but from the standpoint of sharing information. We spoke about -- and you may have heard it not just from me, but you may have heard it around -- eliminating compulsory liability and retaining PIP. We have talked about going to a system of arbitration for a certain dollar amount. That is nothing new; Tommy Deverin proposed that in 1972. We are now talking about eliminating sex and marital status, which we have talked about for a long time, and others have too. It didn't start here. Other states are already doing it. We talk about disclosure; we talk about

excessive profits. This is the package. We talk about the fraud bill that's there. We talk about a medical fee schedule, which I have sponsored and cosponsored with, I think, fifty other legislators. The least part of this problem and, by the way, I know I am going to hear it from your colleague when he testifies, because he is consistent and he is honest, and I respect his opinion, and I am not saying he is wrong-- We talked about the averaging, which I philosophically believe was necessary, because I think when you take all the ingredients and you mix that pot, if you don't really have competition in that pot, no matter what we do, no matter what we change, if we do not have competition, with accountability, with an open market where a company can come in and say, "Hey, I don't want to increase my rates 10% or 15%. I have better management. I can deliver that product for 10% less"-- I do not want the Commissioner's office to write up, you know, a book before the company is allowed to charge a cheaper premium, because they are more efficient. And, that is the way the system is today. You can't charge a lower premium. But, if you give that risk exposure -- and that is the other side of it, and I want to take the opportunity to say this to you, not for agreement or for disagreement, that if you do not give that flexibility in the private sector, for a company to take a risk, and say, "We think we can charge 'X' amount of dollars because we have better management," and, if they take that risk and down the road after a year they find out they made an error, an honest error-- I think ninety-nine and nine-tenths percent of the companies are honest, believe it or not, and I believe that, I do. They are very cunning, they are very smart and they tell half truths, but, basically, they are honest. And, I mean that, you know, in that frame. That is kind of a left-handed compliment, I know, but that is the truth -- not the truth, the facts. I do not know what the truth is; I just know the facts.

The companies must have a system that they believe they have a chance to make money in and, if we don't give them a system to have a chance to make money, then there comes that point where they say, "If we leave the State, is it worth it for us to go out and lose all those years, or isn't it?" I do not want New Jersey to become the best state for business to be in, because if it is we have done a disservice to the people of this State. I don't want it to be the best state for a consumer, number one; I want it to be one of the best states for business, one of the best states for a consumer, and that is nothing new. That is nothing new. The point is, that when the industry doesn't take the risk and tell the truth as they see it, for their own self-interest, they do not come forward and say, "This is what we really need, and this is good, but we only think we can get this so, even though you are right, even though we want open competition, even though we want these other things, we are not going to say it because the Administration said they won't sign that bill,"-- I'm not referring to this Administration, any administration -- "so we are not going to go on the record of challenging the Administration." It's not because they think the Administration is right; they do not have the guts to open their mouths publicly. It's a fact that I found to be true, in my opinion. And, that's sad, and I think in your role, I see your office as the accountability side in protecting the rights of the individual. One of the handicaps I see in your Department -- correct me if I am wrong -- is that I don't think you get enough information, and I think that is what you said when you support disclosure. And, the fact that records are open -- sure, the records that are there are open -- that is not the problem. The problem is not what's

there; the problem is what isn't there. That's the problem. So, when people say, "Well, our records are open in the Insurance Department," that's true, but the records are not what you need, if I hear you right. Have I heard you right?

COMMISSIONER RODRIGUEZ: You have.

ASSEMBLYMAN ADUBATO: Thank you.

COMMISSIONER RODRIGUEZ: In fact, we have preserved the issue that we call the "global issues" with the Commissioner, in order to try to address, again, the composition of the premiums so that the State says, as a matter of its policy, how it would permit it to be structured, so that we can then apply that premium against the system, you see, because in order to get it away from the debating game, my fear is that if we only first try to address the construction of the premium without the acknowledgment by everyone concerned that we will eventually also address the system, we may not be correcting the problem either, because what we will be doing will be looking at almost a way to save and hold them and bring them down and create something in premium construction that the system itself will annihilate. Do you see what I'm saying? So, that is why I'm saying that the study has to be three parts--

ASSEMBLYMAN ADUBATO: (interrupting) I know exactly what you are saying, Commissioner, and what I am saying to you is, we need your help, we need your expertise, and I want you to know, publicly, that this Chair is committed to having a total package, hopefully in concert with the Executive Branch of government, and hopefully in a bipartisan way. But, whether that comes about or not, which is the best way it should come about, I make a commitment to you that we will have a total package that is in the best interest of the people of this State. We will also provide the opportunity, not the guarantee, not a subsidy system, but the opportunity for profit to companies which are good companies and which have good management practices. And, hopefully, we will also provide for failure for those companies which are tagging along in a system which do not deserve to be in business. And, that is part of the American way of life. The American way of life doesn't guarantee success. The American way of life is supposed to say, "We believe in profit; we believe that in our free enterprise system it is better not to have government running everything." That is my opinion. But, we do need accountability and, hopefully, we will not only provide again the opportunity for profit, but will also provide the opportunity for failure, instead of bailing out mismanaged companies, because, you know, the industry, when they bailed out GEICO and subsidized them, they did exactly what they accused government of doing -- subsidizing failure. They are guilty of the charge, and they know it, and I resent it when they talk about government that way, when they are in the private sector and they did it to a greater degree than government could ever dream of doing. GEICO should have failed. Period. But, I'm happy they succeeded, and I am happy that they are functioning in the states they are functioning in, and maybe someday they will be back in New Jersey under the proper conditions, and I don't mean proper conditions for them to make money, but proper conditions, and that will speak for itself, because I believe in restitution.

Commissioner -- Joe, respectfully -- you don't mind me calling you Joe? You know, it's an informal hearing. Joe, thank you again very, very much for coming here. I want you to know that I will have a full package of bills, including the Administration's bills that I include in that package,

such as the fraud bill, which was sponsored by Assemblymen Gallo and Bocchini, which is now in the Senate, the medical fee schedule bill, sponsored by Assemblymen Kosco, Aduato, Karcher and everybody else, the cleanup bill of Assemblyman Deverin, the excess profits bill -- I don't need a list to read them, I know them by heart-- We will address the elimination of discrimination in sex and marital status. We will, by statute, prevent the implementation of the \$33.00 constant. We will, by statute, prevent any rate in this State from going up another penny the rest of this year. We will increase the threshold, and that is being debated right now. We will have a system of arbitration with incentives and disincentives. And, I want you to know something, I did not intend to let this out today, but I want you to know that the Administration and Mike Aduato, and others, in spite of all the rhetoric you hear about in the papers, and sometimes a disagreement, the Governor's office has been cooperating totally -- totally -- in spite of the rhetoric you hear. Alan Karcher has been cooperating totally. I know that may shock some people in this room, and I am not breaking any confidence because I was the instrument and the bridge that put this all together, with the help of the Governor, and the help of Alan Karcher, and the help of people in the industry, whom I will not mention. It is up to them, with their expertise and everything else.

Now, all of these things are not locked in stone. I want you to know that also, like I said with the threshold. There will be some change in the threshold. We will eliminate compulsory liability. We will retain PIP at its fullest. We are going to have a statewide rate for a dollar amount of liability, as suggested by Dean Gallo and Mike Aduato many, many moons ago, when we said that if you eliminate compulsory liability, that's one thing. When we eliminated a system in New Jersey -- let me explain it this way. When we went to compulsory liability, New Jersey at that time had 15% of the vehicles on the road uninsured. From 1973 until today, we still have 12% of the vehicles on the road uninsured, with compulsory liability. So, it's obvious that compulsory liability doesn't protect the person who is insured or the person who needs insurance to drive a car to work, and, especially, protecting someone's assets which they don't have.

ASSEMBLYMAN THOMPSON: Well, it shows insurance is too high; people just refuse to pay it, that's all, after they get that slip.

ASSEMBLYMAN ADUBATO: I agree; it shows it is too high. What we are talking about here is eliminating compulsory liability and implementing the financial responsibility, but saying -- saying -- that if you have to go out and buy a bond, if that is what you have to do to drive, and if the bond says you have to have \$50,000.00 worth of liability insurance -- the old bond used to say what, \$30,000.00-\$15,000.00, or something like that?

MR. CARAMALIS: \$10,000.00-\$20,000.00.

ASSEMBLYMAN ADUBATO: \$10,000.00-\$20,000.00 then, whatever it was, but that was in the cave man days. But, if we said, as Dean Gallo and Mike Aduato jointly fought for in the ad hoc committee, and we could never get them to accept it, but now we are going to put it in the law, that a \$50,000.00 liability coverage is statewide, no class, no territory, and if a person wants to buy \$300,000.00, that's fine. With the \$250,000.00, you are still going to use the system with the discriminatory factors of territory and class. But, meanwhile, you have a statewide rate. Now, what does that do? Some people are going to go up; some people are going to go down; but, do you know what I suggest is going to happen? In three years, which is

going to be in-- All these bills, and every one of these bills, I am going to say it here now, are contingent upon each one of them becoming law, or the whole package goes down. The whole package goes down, because we are dealing with surgery. I'm sorry some of the people left, but we usually save the best for last, and Senator Dumont is last, not this statement.

When we deal with those things, I submit that in three years when we are going to mandate the results, not a sunset, but the mandating of the results of this legislation, to be documented and to be put forward, whether we are right or wrong, and in some areas maybe we are going to be wrong, but we are not going to wait ten years to find out. That's the key. You don't wait a decade to change something that is not working. I submit that in three years time-- And, the only way it is going to work is the companies have to want it to work. That is the only way it is going to work. The companies have to want it to work; otherwise, it is not going to work.

I believe that the people out on those roads will not be 15% uninsured anymore. I believe that if you have more than 4% uninsured motor vehicles on the road, I'll make the statement now, I'll be ready, if I'm still here, and if I'm alive -- I'll still be running, so I'll probably still be here, because in my district I get over 85% of the vote. We may not have the majority, but I'll be here. The point is, that as a result of documentation, not maybes -- and I appreciate all the studies in the world -- but, we have to take a risk, and the risk is we have to perform surgery, not cough syrup anymore, surgery, together.

I want you to know, I'm saying this publicly-- I want you to know that almost, not everything -- it would not be accurate to say everything, because it is not fair -- but 90% of everything I have said here publicly, the Governor's office is aware of, Alan Karcher is aware of, most of the people in the industry are aware of, and we have been working on this, and I am letting the cat out of the bag, ladies and gentlemen, night and day. That goes for the Governor's office, the Speaker's office, this staff -- I don't know when the last time was that these guys were home-- I want you to know that Louie Kosco, up until the time he went on his trip, was always involved in everything this Chair has ever done, and it is with respect for the individuals like Louis Kosco, that we try to do things as legislators, not as Democrats and Republicans. And, I want you to know something, if Tom Kean agrees with this total package, if we agree with him, because, you know, Tom Kean did what he thought was the best that we could get, and you cannot fault him for that. Tom Kean said, "Look, I'm practical. This is my opinion." It's an opinion. He said, "We need a fraud bill," and no one fought that. "We need the medical fee schedule." People are going to fight that, but I want you to know it's on my agenda. And he said he would settle for a \$1,500.00 threshold, in so many words. And, as the Commissioner said, there is no factual data to support it. That is the weakest link, in my opinion, of the bill. While it may introduce something -- I'm not saying it doesn't, and it probably does -- it is a question of what, and for whom. What people do not realize is that the \$1,500.00 threshold, even if everything that was said about it is true, is factual from where they are sitting that it would reduce costs, if it reduces costs for company "X," it doesn't mean it is going to reduce costs for company "A." People do not understand that, and we are doing them a disservice when we tell them it is going to reduce costs across the board. It is not true. That is a fact; I didn't make that up. I get that from the actuaries in the industry. The people really want

something to happen, and do you know what they want? They want an open market, and we already gave it to them with the averaging, believe it or not. And, we have an accountability in there; we need more of an accountability. I believed in open rating from the day I first sat in this body, and I have never stopped talking about it from the first day I sat in this body.

I agree with Jasper Jackson that it needs accountability; otherwise, it is no good. And, we don't have the accountability in it, Commissioner. Jasper is right. We do need that accountability in it. Again, without stealing anybody's thunder, I am proud to be a part of this State, and I think that Tommy Kean, Alan Karcher and the rest of the people here are all responsible people, but we're all human, and we all make mistakes, including Alan Karcher. When he makes them, he makes big ones, because he is a big guy and he's an intelligent guy. When Tom Kean makes a mistake, he makes big ones too, because he is the Governor. He's a big man, an important guy, the number one man in New Jersey. So, he's not the guy in the candy store. If he makes a mistake, everybody knows about it. I make more mistakes than both of them put together, and people should know about that, because when you try to do things you make mistakes. If you don't try to do anything, you'll never make a mistake.

But, let's not be concerned about our mistakes. Let's be concerned about what I honestly feel, in a very short period of time, and I mean that, I mean that, this State will be a torch, not imitating Pennsylvania or imitating somebody else. This State is going to lead, and it is going to try, and it is going to be innovative, and it is going to be willing down the road to say, "Hey, we made a mistake three years ago; let's change it. Let's not wait ten years; let's change it. Let's try this; let's try that." What's wrong with that? What's wrong with saying, "I made a mistake?" The problem is when you don't admit your mistakes, nothing ever changes. That is one of the big reasons why I think we have been caught in this quicksand, because people are fighting admitting mistakes, and we are all guilty of them. I apologize for that sermon, but it is going to happen in the very near future. Ken Merin's prancing back and forth back there. He has worked harder than anybody in the State in dealing with this issue from day one. I don't think he is a saint, but he has the patience of a saint.

I'm sorry, Commissioner. I didn't mean to get into that. I hope I didn't embarrass anybody here. Commissioner, I have nothing more to ask. The bottom line is that you are going to see that package, and I want your comments on it before it is introduced.

COMMISSIONER RODRIGUEZ: We'll react to that package, but just in closing I'll say two things. Number one, we talk about accountability, and I agree with it, but I am a strong believer that accountability has to apply to all of us who are dealing with the problem. I am heartened to hear that you have the responsible pieces also working together, because I think with that, whatever comes out of it should certainly be in sufficient status that the public will have confidence that we responded to a problem legitimately, and I pray that it all comes out, first and foremost, in the public's interest.

ASSEMBLYMAN ADUBATO: Do you know what is going to happen? I am making a prediction to you. The doctors are going to be unhappy; the lawyers are going to be unhappy; the agents are going to be unhappy; and, the companies are going to be unhappy. Do you know what that means? It is probably the right thing.

COMMISSIONER RODRIGUEZ: And, if the people are happy, I think we would have succeeded.

ASSEMBLYMAN ADUBATO: Well, do you know when the people will be happy? They will be happy when they see it in place and they see it working, and when they see the effects. I don't expect the people to be happy, not today. I do not expect that. And, I'm not asking the people to be happy. I'm asking the people to say, "All right, they're saying they are trying something. Let me see how much my premium is the next time I pay it." Then we will find out if the people are happy, after they have to pay a premium when the total system is changed. I do not submit this as perfect; I do not submit that there could not be an alteration or two in here. I'm not saying that -- or a change in here. I'm not saying that either. What I am saying is, it is a question of degree. You noticed I did not give a dollar amount in the threshold, didn't you? And, I'm not going to, not on this mike. And, the arbitration is there, and this package being presented will be offered when the final piece -- and that hasn't been done-- By next Tuesday, the total package will be completed, with or without anybody else involved -- hopefully, with everybody involved, because I know that is what we all want. But, this Chair will not wait beyond next Tuesday and, you know, in this life nothing stands still. You either go forward or you go backward. If we don't go forward-- I am going to say it here now. I have been criticized about Assembly Bill 1696, which I know 90% you support, if not more, and I accept your criticisms as being forthright. I disagree with you on how the point system works, quite frankly. I disagree about the averaging, but you know something, after looking in the newspapers, when five Republican Senators and about twelve Republican Assembly people said they did not know the averaging was in the bill, and if they did, "they would have voted against it." Let me tell you something for the record, if we don't move forward, we are going to look at that averaging again, because maybe I made a mistake. I didn't know that all these Republican Senators were against that. I didn't know all these Republican Assembly people were against that. And, I must say to you, that every Senator and every Assemblyperson has the right to introduce any bill he wants. So far, no one has introduced a bill to take out the averaging, in spite of the fact that they said they were against it, and they would not have voted for the bill if they had known it was in there. I am not going to go into the sharing of information that this Chair does. But, I want you to know that if we don't move forward, we can certainly move backward, because we are not standing still.

COMMISSIONER RODRIGUEZ: I don't think we can go back too far or we are going to feel the fire from the people.

ASSEMBLYMAN ADUBATO: Well, I agree with you. I agree with you. But, you know, the most important thing with competition is equity, and if you don't have equity, competition doesn't mean anything. Free enterprise does not mean, as I like to say, you have a license to give people the shaft. Free enterprise and equity are synonymous; they go hand in hand. There is no conflict between free enterprise and equity. Equity is something we have to keep striving for. If America doesn't stand for that, I don't know what we stand for. The obligation to keep trying to make things better and more fair, that is basic. If that is not part of this system, then we should question the total system. I think it is, by the way. I just think it has to be nudged.

I'm sorry but, you know, you were the catalyst that brought this whole thing out on the table.

COMMISSIONER RODRIGUEZ: Well, I'm happy to hear that.

ASSEMBLYMAN ADUBATO: You know why? I don't want you to think, Joe, that we are sitting here just listening to testimony. I don't want you to think that. Between Monday and today, an awful lot went on, and before Monday, an awful lot went on. On Saturdays, on Sundays, every day of the week. I'm not exaggerating. It is not up to me to tell you who those people are. If those people want to tell you who they are, they will tell you. I am not at liberty to tell you who they are, but they are decision makers, and that is what counts. They are the people who make the decisions. They are not people who come back with half truths about what is going on in Trenton.

I'm sorry, Joe. I didn't mean to get carried away. I'm finished.

COMMISSIONER RODRIGUEZ: No, that's all right. I'm finished also. I came here because you requested me to be here. I think that with the variety of people who are working on this-- When I say "making the people happy," what I really mean is that they have to be convinced that we honestly recognize the problem and we, in good faith, reacted to that problem and came up with a response. Then it is up to us to be sure that they have confidence in what we have done, regardless of where that takes us if it, in fact, is the honest answer.

ASSEMBLYMAN ADUBATO: If it is the honest thing, that we honestly believe is the best thing for us to do, then we should do it, and I think that is what you are saying; regardless of the political consequences, we should do it. I know that's you, and I know that's Senator Dumont sitting behind you. And, it is not agreement; it has nothing to do with agreement. It has to do with a word called "conviction" and a word called "commitment."

COMMISSIONER RODRIGUEZ: And, accountability.

ASSEMBLYMAN ADUBATO: I like that too; that is even more important, accountability. Commissioner, thank you for coming.

COMMISSIONER RODRIGUEZ: Okay, thank you.

ASSEMBLYMAN ADUBATO: Jasper, I would like you to stay. Is that okay, Commissioner? Can I keep him here?

COMMISSIONER RODRIGUEZ: Yes, I brought him for that purpose, because I have to leave.

ASSEMBLYMAN ADUBATO: Okay, good. Thank you. Jasper, I am not going to put you over the coals as I had intended to, for one reason. I intend to ask you some very direct questions that are very important to us, and I know that Assemblymen Thompson and Kosco may have some questions, and I wish the Commissioner-- You know, I wrote these down for the Commissioner, darn it. Can you get the Commissioner, if he is still here, please? I have just three questions I want him to answer. There are three questions he has to be asked. (Chairman sends someone out after Commissioner.)

Jasper, I don't want you to be interrupted once you start.

MR. JACKSON: Can we wait for him?

ASSEMBLYMAN ADUBATO: All right, but please get over there. I'll tell you right now, we are going to go right through, Jasper, because, you know, what I want to deal with with you is not policy, naturally. I want to deal with you with mechanics. I will keep the policy questions for Joe Rodriguez, if they caught him. (Chairman is informed that Commissioner Rodriguez has left the building.) All right, the Commissioner is gone, so I am going to ask you. What is your position with the Public Advocate's office?

J A S P E R J A C K S O N : I am a Deputy Public Advocate.

ASSEMBLYMAN ADUBATO: You are going to be here for less than fifteen minutes, Jasper. Please use both mikes and state your position again.

MR. JACKSON: I am a Deputy Public Advocate, but I am also the Chief of the Insurance Bureau within the Division of Rate Counsel, in the Department of the Public Advocate.

ASSEMBLYMAN ADUBATO: Rate Counsel?

MR. JACKSON: Yes.

ASSEMBLYMAN ADUBATO: A chief in that division. For the record, I am going to say publicly that I already asked these questions of Joe Rodríguez, the Commissioner, and already got his answers. I want that on the record, and, you know, anybody, a reporter or anyone else, can ask him if it is true. I'm saying I already asked the Commissioner, and I already know his statement. But, as far as you know, when ISO was granted its latest increase to 7% on January 7, and in that press release that went out-- Did you see the press release?

MR. JACKSON: Yes, I did.

ASSEMBLYMAN ADUBATO: All right. Although it was in the filing, the class change, were you aware of the class change being granted when the press release went out?

MR. JACKSON: No, I was not. I did not become aware of it--

ASSEMBLYMAN ADUBATO: (interrupting) How did you become aware of the class change? Was it from the press release the Commissioner's office gave you?

MR. JACKSON: No, it was not. It was through an article that I read in the Star-Ledger.

ASSEMBLYMAN ADUBATO: It was through an article that you read in the Star-Ledger by Vince Zarate?

MR. JACKSON: Yes.

ASSEMBLYMAN ADUBATO: All right. So, you did not get the information as the Public Advocate that the Commissioner had changed the entire class plan for ISO. Is that a fair statement?

MR. JACKSON: That is a fair statement.

ASSEMBLYMAN ADUBATO: Next question, were you ever notified of the Federal law changing Medicare becoming primary by the Insurance Department?

MR. JACKSON: No, we were not.

ASSEMBLYMAN ADUBATO: How did you become aware of the changes in Medicare?

MR. JACKSON: Once again, through articles we read and reviewed in the press.

ASSEMBLYMAN ADUBATO: In the press. How were those articles motivated? Who were the articles about? Were they about the Governor? Were they about the Commissioner? Were they about Assemblymen Karcher and Adubato and the Assembly issuing the press release about the Medicare changes? Do you remember?

MR. JACKSON: Yes. I believe the articles we reviewed mentioned the Assembly.

ASSEMBLYMAN ADUBATO: Did you ever see any articles mentioning the Commissioner's statement about the threat of Medicare changing as a primary carrier?

MR. JACKSON: No, we did not.

ASSEMBLYMAN ADUBATO: Officially or unofficially?

MR. JACKSON: Officially or unofficially, we did not.

ASSEMBLYMAN ADUBATO: So, the Commissioner's office never notified the Public Advocate that senior citizens were going to go up from a \$58.00 minimum to \$114.00, potentially, because of the shift in cost?

MR. JACKSON: That is an accurate statement.

ASSEMBLYMAN ADUBATO: From 1973 until 1977, under no-fault, did the senior citizens of New Jersey pay a total PIP premium, in spite of the fact that Medicare was primary?

MR. JACKSON: Yes, they did.

ASSEMBLYMAN ADUBATO: The system was changed when, in 1977? Is that correct?

MR. JACKSON: Yes.

ASSEMBLYMAN ADUBATO: What happened to all the money the companies collected from 1973 to 1977, without having the responsibility of paying for a benefit?

MR. JACKSON: They retained it.

ASSEMBLYMAN ADUBATO: They retained the money?

MR. JACKSON: Yes.

ASSEMBLYMAN ADUBATO: Has anything ever been done in this State to correct that error?

MR. JACKSON: Well, other than changing the rating requirement that senior citizens only pay 50% of the current PIP rate, no. No action has ever been taken that I am aware of.

ASSEMBLYMAN ADUBATO: No action has been taken. Has anyone in the Commissioner's office or in the Public Advocate's office ever written anything about it, or asked the insurance companies to correct their honest mistake and make an honest correction?

MR. JACKSON: Well, when Philip Stern was the Chief Actuary, the Property Liability Actuary for the Department of Insurance, and was trying to address the entire problem, we brought to his attention the fact that consideration should be given to trying to recoup the past charges for the senior citizens. He indicated that he would discuss it with then Commissioner Sheeran. He then indicated to me that he had, and after that other issues developed and, as far as I am concerned, the whole process stopped.

ASSEMBLYMAN ADUBATO: Isn't it also a fact that from 1973 until today, handicapped people -- permanently handicapped people, who can drive an automobile, and do drive, and are insured, and have always been covered under Medicare as primary, have always paid the full PIP premium, including today?

MR. JACKSON: Yes, that is true.

ASSEMBLYMAN ADUBATO: So, in other words, every handicapped driver who is driving an automobile today in this State, if they were to have an accident, and were taken to the hospital, their insurance coverage would not be triggered until they exhausted all their Medicare payments?

MR. JACKSON: That is correct.

ASSEMBLYMAN ADUBATO: Then PIP would come into play.

MR. JACKSON: Yes.

ASSEMBLYMAN ADUBATO: However, the insurance industry is collecting the full premium as if they were the primary carrier. Isn't that a fact?

MR. JACKSON: Yes, it is.

ASSEMBLYMAN ADUBATO: Thank you, Mr. Jackson. Moving right along-- Mr. Jackson, have you reviewed the written statement and accompanying exhibits submitted to this Committee by Commissioner Murphy?

MR. JACKSON: Yes, I have.

ASSEMBLYMAN ADUBATO: Do you believe they accurately depict the Public Advocate's role in automobile rate matters?

MR. JACKSON: Not entirely.

ASSEMBLYMAN ADUBATO: Where do you differ?

MR. JACKSON: Well, on Page 2--

ASSEMBLYMAN ADUBATO: And, why? Let's put it that way. We know that you differ, but why?

MR. JACKSON: Well, on Page 2 of the Commissioner's statement, in what would be the first full paragraph, the last sentence, he states that, "Except in the State Farm matter and in the AIPSO Administrative Law proceeding, the Public Advocate did not demand a hearing before the rate approval was granted." The fact is that, in all of the auto rate petitions in which we have intervened before the Department of Insurance, we have demanded hearings. Not only have we demanded hearings, we have requested that they be considered to be contested case proceedings and transferred for hearing before the Office of Administrative Law.

Commissioner Murphy, in most of the instances in which we requested hearings, simply did not accede to our requests. He felt that hearings were a form of confrontation which he wanted to avoid, and he also thought that they could be quite lengthy and expensive. He also indicated that it was his perception that the market was in crisis and that something had to be done expeditiously and, therefore, in most instances, he denied our requests.

ASSEMBLYMAN ADUBATO: All right. Now, let me ask you this. Aren't you talking about a two-stage situation, where in the initial phase of an approval -- like the ISO thing was two phases, wasn't it?

MR. JACKSON: Yes, it was.

ASSEMBLYMAN ADUBATO: There was a phase one and a phase two. Now, for the record -- I want to put this on the record -- for the record, I want everyone here to know, and I want the people to know, that I was one of the people, without the Commissioner knowing about it, to the best of my knowledge, because I certainly did not tell him, and never discussed it with him, or anyone else in the Insurance Department, but I went to the Public Advocate's office, along with some people from the Governor's office, to a meeting that you also attended. Is that a fair statement?

MR. JACKSON: That is correct.

ASSEMBLYMAN ADUBATO: Did I request that the Public Advocate's office expedite the rate requests of the companies as soon as possible in the first phase of those requests?

MR. JACKSON: Yes, you did.

ASSEMBLYMAN ADUBATO: Did I say that any errors you picked up, to study -- not to give them something you didn't think they needed, but if there was a strong disagreement, and you did not have all the data, did I request, to the best of your ability, that you give them the rate increase anyway and argue about it later?

MR. JACKSON: Yes, you did.

ASSEMBLYMAN ADUBATO: I just want that on the record. Now, phase two, and that is what I am concerned about. When you wanted the documentation and you wanted the hearings, you were promised in phase one that you were going to have those hearings. Is that a fact?

MR. JACKSON: Yes, we believed we were promised.

ASSEMBLYMAN ADUBATO: You believed you were promised. The Commissioner said you were not.

MR. JACKSON: Correct. Later on, when we moved for the phase two proceeding, he expressed surprise that we felt that there was an understanding that there would be a phase two hearing.

ASSEMBLYMAN ADUBATO: So, there was a misunderstanding between your office and the Commissioner's office about the fact that the Public Advocate, while it cooperated totally-- Is that an understatement -- totally?

MR. JACKSON: I do not believe so.

ASSEMBLYMAN ADUBATO: The Public Advocate's office cooperated totally with those initial increases, and did not stand in the way. In fact, the documentation that I have shows that the Public Advocate's office wasn't even involved in some of those increases. They were granted before you even got the documentation. You got the documentation after the increases were granted. Give me the record. For instance, when we look at the fact that AIPSO-- Okay?

MR. JACKSON: Pardon me, what exhibit?

ASSEMBLYMAN ADUBATO: Oh, I'm sorry; we're talking about Exhibit B-1. This is the list of the last twelve months of all the increases that were granted to any filer. AIPSO asked, on July 8, 1982, actually for a 30% increase. That is not reflected here, though. They say the company requested 15% and 7%. To the best of my knowledge, they requested 30%.

MR. JACKSON: That is correct.

ASSEMBLYMAN ADUBATO: That is correct.

MR. JACKSON: Essentially they requested thirty-two point something percent, but--

ASSEMBLYMAN ADUBATO: Thirty-two percent. Well, I rounded it off to 30%.

MR. JACKSON: Yes, fifteen and fifteen would produce that.

ASSEMBLYMAN ADUBATO: This documentation says they requested 15%. Okay?

MR. JACKSON: Yes.

ASSEMBLYMAN ADUBATO: At phase one.

MR. JACKSON: Yes, and another 15% in addition to that 15% would work out to thirty-two some percent.

ASSEMBLYMAN ADUBATO: Right, thirty some odd percent, two phases together. Now, that letter was dated July 8, 1982. The increase was approved on July 9, the next day, the total 15%.

MR. JACKSON: Yes.

ASSEMBLYMAN ADUBATO: The Public Advocate's office did not receive notice until July 13. Is that possible?

MR. JACKSON: Yes. May I correct something here on the exhibit?

ASSEMBLYMAN ADUBATO: Sure. I'm going by the Commissioner's documentation, not mine.

MR. JACKSON: Okay. You're looking at AIPSO, am I correct?

ASSEMBLYMAN ADUBATO: Yes, AIPSO, not ISO.

MR. JACKSON: Which is the assigned risk claim?

ASSEMBLYMAN ADUBATO: Yes, sir.

MR. JACKSON: I think that what happened was that the company made its request on July 8, 1982, and we received the documentation on or about that date. The problem was that we did not make our recommendation until July 13, 1982, but the Commissioner had acted on July 9.

ASSEMBLYMAN ADUBATO: All right, so I stand corrected. You had the information, but you did not make your recommendation until July 13, which was five days later.

MR. JACKSON: Correct.

ASSEMBLYMAN ADUBATO: You made your recommendation in five days' time to a rate request. Right?

MR. JACKSON: Yes.

ASSEMBLYMAN ADUBATO: However, it was already granted the next day, before you even made your recommendation?

MR. JACKSON: Yes, which incidentally we didn't know, because at the time we filed the recommendation we still had not received the Department's order of approval.

ASSEMBLYMAN ADUBATO: So, in other words, the increase was granted and the Public Advocate's office had no knowledge of it being granted, or when it was granted?

MR. JACKSON: That is correct.

ASSEMBLYMAN ADUBATO: That is correct?

MR. JACKSON: Yes.

ASSEMBLYMAN ADUBATO: Thank you.

ASSEMBLYMAN KOSCO: May I ask a question?

ASSEMBLYMAN ADUBATO: Sure, Lou, go right ahead.

ASSEMBLYMAN KOSCO: What you are saying is, that the rate increase was granted, and you were told it was granted; you were not being asked if it was proper or if you agreed with it; you were being told that it was granted?

MR. JACKSON: That is correct.

ASSEMBLYMAN KOSCO: Were you asked for a recommendation, or did you just make that recommendation on your own?

MR. JACKSON: We made the recommendation as a matter of due course, because we had intervened in the matter. The recommendation was not specifically requested of us.

ASSEMBLYMAN KOSCO: Okay. You did not get the rate increase with a letter that said, "Will you please respond to this?"

MR. JACKSON: No, we did not.

ASSEMBLYMAN KOSCO: Okay.

ASSEMBLYMAN ADUBATO: Were you given a time notice to respond? How much time were you given to respond?

MR. JACKSON: We were given no time, because the Department just acted. It did not notify us that it was going to act, nor did it give us a specified period of time within which to act.

ASSEMBLYMAN ADUBATO: Well, that is technically true, but isn't it also true that there was a twenty-four hour period from the time the request was made to the time the request was granted? So, I would say you had twenty-four hours to respond. You may not have been given a request in writing, but the results are that from the twenty-four hour period, you had to respond to that rate filing and, if you didn't, it was over. That is the point. It was a twenty-four hour period. You were given the letter, and in twenty-four hours the increase was granted. So, if they didn't do anything in that twenty-four hour period, it was just too bad; it was already done.

Now, I want to ask about the ISO Step One and Step Two that were filed on May 19, 1982 -- the recommendation, and that was the 30% deal, 15% and 15%, that ended up being 15% and 7%.

MR. JACKSON: Yes.

ASSEMBLYMAN ADUBATO: From that, the important thing there, and I will restate it, is, I did not question the Commissioner giving ISO a 15% increase; I did not question the Commissioner giving ISO another 7%

increase. I do not believe, as much as I do not like to see rate increases, that we are qualified to make those judgments. That is my honest opinion. So, I did not criticize those increases. However, our criticism came over the fact that they changed an entire rating class system for ISO, and what I want to hear is, while that was in the filing, to the best of your knowledge, when was the first time ISO filed for that class change plan?

MR. JACKSON: As I recall, it was part of a December 7, 1977 filing that--

ASSEMBLYMAN ADUBATO: It was 1977?

MR. JACKSON: Yes. The Insurance Services Office had made--

ASSEMBLYMAN ADUBATO: So, I was accurate when I said "the first time they filed for that class change was in 1977?"

MR. JACKSON: Yes, you were.

ASSEMBLYMAN ADUBATO: All right. Under the former Commissioner, did he ever grant that change?

MR. JACKSON: No, he disapproved it.

ASSEMBLYMAN ADUBATO: He disapproved it. Wasn't the former Commissioner interested in the inequities in the system? Didn't he feel that the youthful operators and the urban drivers were being unfairly discriminated against? Would you say that was his philosophy?

MR. JACKSON: Yes, I would say that that was his philosophy.

ASSEMBLYMAN ADUBATO: Now, wait a minute, wait a minute. I am totally confused. I shouldn't say that publicly, but I'm confused because I understand why he refused that, and I am confused as to why other people testified, including the Commissioner, that this was to help the youthful operators and the people in the urban areas. I'm confused. Would you tell us why the former Commissioner disapproved this plan?

MR. JACKSON: Well, he disapproved the plan because it had all the elements of the current plan. The current plan is called the 217 Class Plan. The one which they proposed was the 161 Class Plan. But, both plans are predicated upon the same principles and the same factors. In other words, they are predicated upon age, sex and marital status being used as the primary rating criteria, with territories thrown in, other usage and some merit rating principles. The 217 Class Plan, if you have a full package of coverages, and you take into account all the rating possibilities, produces over one million rates. The 161 Class Plan would have reduced it somewhat, but we still feel that youthful drivers, whether they reside in the suburbs or in urban areas, as well as urban residents, would have been grossly overcharged, so that some insureds, those who are considered to be preferred by the companies, would be slightly undercharged.

ASSEMBLYMAN ADUBATO: Let me interrupt you, Jasper. You know, sometimes I have too much information, and I think that is one of your faults. You have too much information. What I would like to ask you is this. Is it a fair statement to say that Assembly Bill 1696 addresses the problem of the youthful operator and the city driver to a greater extent, while it doesn't solve all the problems, than the ISO class plan would have done in reducing their rates?

MR. JACKSON: Oh, substantially so.

ASSEMBLYMAN ADUBATO: Substantially so.

MR. JACKSON: May I make--

ASSEMBLYMAN ADUBATO: No, I want to ask you one thing. I don't want to forget this. In 1977, in their original filing in December, did ISO flatten any of their expenses then, in this State?

MR. JACKSON: No, they did not.  
ASSEMBLYMAN ADUBATO: No, they did not. Did ISO have any capping system in their filings?  
MR. JACKSON: No, they did not.  
ASSEMBLYMAN ADUBATO: No, they did not. Did ISO have any flattening of taxes?  
MR. JACKSON: No, they did not.  
ASSEMBLYMAN ADUBATO: No, they did not. I'm sorry to interrupt you; go ahead, Jasper.  
ASSEMBLYMAN KOSCO: May I just ask a question for my own information?  
ASSEMBLYMAN ADUBATO: Sure, go right ahead.  
ASSEMBLYMAN KOSCO: When a plan is presented for a rate increase and it is refused, doesn't it die, or does it stay there forever so that anybody can pick it up? My question is, how did this rate increase--  
ASSEMBLYMAN ADUBATO: They keep resubmitting it.  
ASSEMBLYMAN KOSCO: Okay. So, it was originally submitted in 1977. Was it resubmitted every year after that?  
MR. JACKSON: Every time--  
ASSEMBLYMAN ADUBATO: Every time they-- I'm sorry; go ahead, Jasper.  
MR. JACKSON: Every time ISO filed for a rate application, they proposed, essentially, the 161 Class Plan.  
ASSEMBLYMAN KOSCO: Okay, so that filing was put in in 1977, 1978, 1979, 1980 and 1981, every year, and every year it was turned down for the same purpose?  
MR. JACKSON: Yes, I believe so. I think that what happened, if my memory serves me correctly, and I can check my records, is that it was proposed in 1977. The Commissioner indicated that he would have to disapprove it and, in fact, he then scheduled a hearing to examine the equity and the accuracy of the rating classification schemes that all the various auto insurers had. After he held that hearing, he concluded that--  
ASSEMBLYMAN ADUBATO: When was that hearing?  
MR. JACKSON: That hearing commenced in December 1978 and ended in December 1979. There were essentially eighty-nine hearing days over the span of the year in which the industry, the Department of Insurance and the Public Advocate presented various witnesses on all the issues. At the conclusion of that hearing, it then took the Department about a year and a quarter to evaluate the record, but once that was accomplished, the Commissioner then disapproved, not only the current rating schemes, but any rating scheme that the insurers proposed, based upon the criteria which they currently use--  
ASSEMBLYMAN ADUBATO: I have only one other question, Jasper.  
MR. JACKSON: May I just continue with this answer?  
ASSEMBLYMAN ADUBATO: Yes, go ahead.  
MR. JACKSON: --because he found that, contrary to the contentions of the industry, the plans were not accurate in terms of predicting the losses of the various classes of policyholders that they had, and that more than likely they appeared to be surrogates for other factors which had a direct relationship to driving, such as annual mileage, the experience of a driver and whether or not one had actually had an accident and accumulated motor vehicle moving violation points. That is the type of system that he did not mandate, a particular system for the insureds; he simply identified

those criteria which he felt they should take into account in developing a classification system.

ASSEMBLYMAN KOSCO: Thank you.

ASSEMBLYMAN ADUBATO: Jasper, -- with your permission I will call you Jasper, but I will call you Mr. Jackson if you like. But, Jasper, you have been on the record from day one as opposing the averaging increases that I allowed the companies to take in the future in Assembly Bill 1696. Is that a fair statement?

MR. JACKSON: Yes.

ASSEMBLYMAN ADUBATO: You testified strongly against that legislation in the Senate Chamber, as well as in the Assembly, at Committee hearings?

MR. JACKSON: Yes.

ASSEMBLYMAN ADUBATO: You also notified the sponsor, Mike Adubato, who is sitting here, before you testified, that you were going to do that?

MR. JACKSON: Yes.

ASSEMBLYMAN ADUBATO: Did you call me and tell me, "Assemblyman, I agree with most of your bill. I think it is terrific for the people, and I'll say it?" You know, that's what you said. I don't know if it is true, but I hope it is. But, you also had some criticism, and the criticism was, you said, "Assemblyman, I hope this doesn't do anything to our friendship, but this is my responsibility, and I think the averaging is wrong."

MR. JACKSON: That is accurate.

ASSEMBLYMAN ADUBATO: Did you also tell me you thought it was wrong because there wasn't the trade-off of accountability that you could review enough accurate information to justify the rate increases?

MR. JACKSON: That is correct.

ASSEMBLYMAN ADUBATO: You were against the fact that the averaging was not balanced out with a system of disclosure. Is that a fair statement -- an excess profits law?

MR. JACKSON: I would say that is a fair statement.

ASSEMBLYMAN ADUBATO: Is that a fair statement?

MR. JACKSON: That is a fair statement.

ASSEMBLYMAN ADUBATO: So then, it has not been accurately reported that you were just against averaging, because you were against averaging, but in its present state and the way the system would allow it to function come January 1, 1984?

MR. JACKSON: That is correct.

ASSEMBLYMAN ADUBATO: I wanted that on the record, because I think some people were confused about that position, and I was one of them initially, I admit that. But, after talking to you, and after discussing it with you, I had the opportunity to appreciate why you felt so strongly about the averaging. What are the things you think we could do, or what are the things that you, as the Public Advocate's person in the rate making system, believe they should have appropriately put into the financial disclosure statement? What statistics don't they put in, let's put it that way?

MR. JACKSON: I think that that would be a long list, and it is kind of technical.

ASSEMBLYMAN ADUBATO: All right. Wait a minute. I know Assemblyman Thompson only has one question he said he wanted to ask you, and I would like him to ask that question because I want Senator Dumont, who has been sitting here patiently, to address us right after that question, if that is okay. Assemblyman Thompson?

ASSEMBLYMAN THOMPSON: Thank you. The one question I would like to ask Mr. Jackson is in reference to-- On July 26, 1982, State Farm asked for an increase of 15%, and the Public Advocate's office suggested a decrease of 9.8%. The Commissioner's office gave an increase of 15%. I do not understand--

ASSEMBLYMAN ADUBATO: Jasper you heard that, but I don't think some of the people in the back heard it, so I would like it repeated.

ASSEMBLYMAN THOMPSON: On July 26, 1982, State Farm asked for an increase of 15%, but the Public Advocate's office recommended a decrease of 9.8%. The Commissioner's office gave an increase of 15%.

ASSEMBLYMAN ADUBATO: All right. So, the point is, there was a filing by State Farm for an increase. The Commissioner's office granted State Farm a 15% increase, using the same data, I assume. The Public Advocate's office recommended a 9.8% decrease, not a 9.8% increase, a 9.8% decrease. Now, that is a heck of a spread -- twenty-four points is it? My math isn't too good, and maybe one of those young people up there in the balcony can help me. Where are you all from? (Assemblyman Adubato speaks to students in the balcony who are visiting.)

FROM AUDIENCE: We're from Middletown.

ASSEMBLYMAN ADUBATO: Middletown, that is a terrific town. What grade?

FROM AUDIENCE: Fourth grade.

ASSEMBLYMAN ADUBATO: My toughest grade. It is nice to see you all here.

FROM AUDIENCE: Thank you, Assemblyman.

ASSEMBLYMAN ADUBATO: You're welcome. Jasper, I'm sorry for that interruption. Why is there such a great spread of that 24%?

MR. JACKSON: Well, essentially, the difference is tied up in what we would call the traditionally-accepted actuarial principles, and the data which the companies traditionally rely on, versus that which the Public Advocate has come to believe is required to truly evaluate an insurer's revenue requirements. Essentially, by the time State Farm made its filing, we were aware of the fact that the Commissioner felt surprised by the fact that we believed we had an understanding with respect to the phase one and phase two hearings. So, we requested of State Farm, up front, the type of data that we believed we needed to really evaluate its filing, in addition to that which was contained in the rate petition filed with the Department of Insurance, and we were successful in securing, I'd say about 70% to 75% of the data. Upon the review of that data, the expert consultants which we retain to assist us in evaluating the filing concluded that the State Farm rates were at least 9.8% excessive, and that they should be, in fact, reduced rather than increased.

The differences flow essentially from three areas, or perhaps four. One, the experts believe that State Farm, in setting aside monies for claims to be paid in the future on the liability side, had overreserved substantially, that in setting the reserve for a claim-- I can give an example in this way. If a claim was reported on which the company believed it would ultimately incur a loss of \$100,000.00, it set the loss reserve at \$100,000.00. The experts found that that was not the correct thing to do, because when they looked at the past experience of State Farm, they saw that on average this type of claim would be paid out, let's say, five years in the future, and they believed that the claim, therefore, should have been

discounted, the cash value, to take into account the investment earnings that would be earned on the \$100,000.00 that was set aside.

So, where the claim had been set at essentially \$100,000.00, they believe that perhaps it should have been set at something like \$80,000.00 to \$85,000.00, and that the money would have earned the additional monies required over the investment term at the time the claim was paid out.

ASSEMBLYMAN ADUBATO: Yes, but I have a question about that. Isn't investment income, even on the reserves, included in the rate making system? In other words, you know, I know it is complicated, so maybe I shouldn't even ask the question here.

MR. JACKSON: Well, you can ask it, because I was going to get to it anyway.

ASSEMBLYMAN ADUBATO: Oh.

MR. JACKSON: I think that we have, in New Jersey, what is called the "Clifford Formula," or the "Remand Formula," which was promulgated by the Department of Insurance around 1972. That formula requires that the Commissioner of Insurance take into account the investment earnings on what is essentially policyholder assets at the time a rate is set. We believe that there are a host of problems with that formula. At the time it was first promulgated, it was perhaps -- well, it was one of the most radical things in the country at the time. It was very far-reaching. But, since then, the financial science has progressed to such an extent that they can now more accurately fix what would be an adequate return on equity for an insurer and, also, they can more accurately fix what should be a fair rate of return to an insurer.

Different companies apply the Clifford or Remand Formula in different ways. What State Farm did -- State Farm took the investment income into account, but it put all of the money into what it called "policyholder surplus." It did not use any of the money to reduce the rate or revenue requirement indications. It put it all in the company's chest so that the company would have more money to grow against in the future, and they said that since the policyholder surplus belonged to the policyholders, it was still being credited to the policyholders. Well, we contended that, pursuant to the Remand Formula, a certain portion of it had to be used to offset the revenue requirements. But then above and beyond that, we felt that the way the Clifford/Remand Formula actually operates and applies is inequitable to the policyholders and does not give them a fair rate of return on their money. That was also one of the major differences.

The other major difference is that, in forecasting for the impact of inflation, we found that-- Well, first of all, we believe that the industry's methodology is, once again, outdated. They are not state of the art, and the data that they use double counts for the impact of inflation. So, we demanded the raw detail, totally devoid of any company judgment or assumptions, and we, therefore, came up with our own forecast of inflation pursuant to an econometric forecasting model which was developed by a leading professor of insurance at the Wharton School.

ASSEMBLYMAN ADUBATO: Are you familiar with the Florida law as it applies to disclosure in excess profits?

MR. JACKSON: Yes, we are.

ASSEMBLYMAN ADUBATO: What do you think about that law in Florida? Do you think that would be helpful to the Public Advocate's office, or not?

MR. JACKSON: Oh, I think it would be helpful to the Public Advocate's office, and I think it would be great for the citizens of the State of New Jersey. But, I believe that if we go that route, we still have to address ourselves to the investment income earned on policyholder assets as it is reflected in the rate making methodology.

ASSEMBLYMAN ADUBATO: Yes, but now just for the record, we're only talking about policy assets as they apply to the State of New Jersey, right? We're not collectively talking about all the states.

MR. JACKSON: That is correct.

ASSEMBLYMAN ADUBATO: We are talking about an experience as it applies only to New Jersey. The reason why I bring that out is because some companies have suggested that some people wanted to deal with an experience that they had in other states, and to use their assets in the other states. You know, for instance, State Farm returned, a few years ago, fifty some odd million dollars to their policyholders in nineteen states. It is interesting to note that not one of those states was a no-fault state.

MR. JACKSON: That is correct.

ASSEMBLYMAN ADUBATO: Not one, with the exception of Georgia -- let me apologize -- which is no-fault this way, okay? It is the only state and, by the way, not only was Georgia the only no-fault state that was included, but in the State of Illinois, where State Farm and Allstate happen to be domiciled, State Farm did not return any money -- in Illinois, but for different reasons. What we found out was that in Illinois there is great competition, especially between Allstate and State Farm, and they keep cutting their premiums down because, you know, they're fighting there.

I want to make that kind of a climate here. I want them to fight here and have competition. You know, that is one of the ingredients we need, that I really do not think we have, to be fair about it. That is the other side of the coin.

MR. JACKSON: Competition?

ASSEMBLYMAN ADUBATO: Yes.

MR. JACKSON: I agree with you. I just believe that if we go to a system where the companies are able to raise the rates on their own accord without prior approval, as you said, we would need a good system of accountability.

ASSEMBLYMAN ADUBATO: Well, I'm looking forward to that.

MR. JACKSON: That system has, in my mind, not speaking for the Public Advocate, a lot of elements to it.

ASSEMBLYMAN ADUBATO: Mr. Jackson, I want you to know that--

MR. JACKSON: May I say one thing?

ASSEMBLYMAN ADUBATO: Yes, go ahead.

MR. JACKSON: California is the state that the companies point to as the bench mark for how open competition rates, and it is the original open rating state. But, the fact is, when you look at the State of California, it is in the top five with respect to average premium, it has three to four million uninsured drivers on the road, and it has a residual market problem that, in my mind, is as great as the one which we currently have in New Jersey. The difference is that in California, they have what they call a "nonstandard market," so that when they point to the assigned risk plan and they say, "Well, only about 5% to 7% of the drivers are there," they exclude from that observation the nonstandard market, which essentially operates in this manner. You have the Allstate Insurance Company and you have the

Allstate Indemnity Company. If a citizen goes to Allstate and for some reason Allstate does not want to accept that person in what it calls its "standard company" or "preferred company," it says, "Well, we'll give you coverage, not in the Allstate Insurance Company, but you will still have the service and the Allstate name behind you. We are going to place you in the Indemnity Company." What they don't tell the individual is that the rates there are oftentimes higher than those in the assigned risk plan.

ASSEMBLYMAN ADUBATO: About 40%.

MR. JACKSON: At least that.

ASSEMBLYMAN ADUBATO: About 40% higher. But, it's in the voluntary market. It is not the residual market.

MR. JACKSON: That's true.

ASSEMBLYMAN ADUBATO: It is the voluntary market, so when they talk about 220,000 people in California, with twelve and a half million people being in the assigned risk, it is a true statement.

MR. JACKSON: Except that we believe that the nonstandard market should be--

ASSEMBLYMAN ADUBATO: But, they don't tell you how many people are in the nonstandard market who have a good driving record, who are paying 40% plus more than their next-door neighbor who has the same driving record.

MR. JACKSON: That is correct. So, what I'm saying is, if we are going to go to an open rating type environment, we have to take measures to ensure that the market, in fact, operates competitively.

ASSEMBLYMAN ADUBATO: One other question. In the press release as issued by the Department -- not that you are responsible for the press releases -- but, do you know one of the things that amazes me? In that State Farm case where the 15% was reported accurately as being 15%, there was no mention of the fact that in that same filing, State Farm was giving an incentive to the people of this State, and we're saying that if you had insurance with State Farm for three years, and had no chargeable accidents, they gave you a 5% reduction in your premium. If you were with State Farm for six years and had no accidents, they were giving you a 10% reduction in your premium. Now, I think that is newsworthy. I think, you know, that I would shout that from the rooftops, if I was in the Insurance Commissioner's office. I'm not asking you to comment.

Do you know what I'm saying, Lou? I mean, don't you think that people would like to know that if they had a safe-driving record, State Farm would reduce their premium after three years, and reduce it even more after six years? Isn't that an incentive?

ASSEMBLYMAN KOSCO: I think it would be very, very important.

ASSEMBLYMAN ADUBATO: I mean, we always talk about the negative; let's talk about the positive. That's a positive with that filing, but no one said a word about it. I don't know who knows about it out there. I only know about it because I had to read the whole filing. No one ever said to me, "Hey, Mike, do you know what they did at State Farm? They have an incentive program." No one. I had to read a filing like this (Chairman indicates size of the filing) to pick that out.

MR. JACKSON: Well, there were a lot of changes that were made in terms of State Farm that were not reported.

ASSEMBLYMAN ADUBATO: I know. School buses went up 21%, and a few other things, but they are still not charging as much as some other companies, even with the 21% increase. So, sometimes when you look at an

increase, and you say, "Hey, State Farm got a 21% increase," that's true. But, it's also true that their premium, even with the 21%, is still cheaper than most of the companies doing business in this State.

MR. JACKSON: That's true.

ASSEMBLYMAN ADUBATO: So, it's not fair to just say State Farm got a 21% increase. It is fair to say they got an increase, but look, they are still dealing with the marketplace. In other words, I want to take the whole story if I can. You know, tell it all.

Jasper, I have no other questions, except that I want you to know that we are going to look for your help, especially when we talk about the areas of disclosure, and in the package of bills we're talking about, and we are going to call on you. I know that you will continue to be straightforward, to be honest, and to take risks to speak your convictions as you see them. And, you know something, we need that. We all need it. We are not looking for agreement; we are looking for your integrity. Most of the things you talk about, I have come to realize I agree with. I think sometimes we leave ourselves hanging, you know, because I'm interested in running toward an open market. I admit that. I want to rush to competition and open it up, and sometimes I don't verbalize the fact that I also understand you have to have the accountability. You are focusing on the accountability side, and I agree with you that it's necessary. I just want you to know that for the record. It is necessary, and I agree with you. Jasper, thank you very much for coming.

MR. JACKSON: Okay. There is just one other comment that I would like to add. You asked me whether there were some changes that we disagreed with. In Exhibit B-1 itself, we have some other areas of disagreement, but I think I can submit most of them in the form of written commentary for the record. For instance, with respect to the ISO rate changes, it shows that in the second step the Public Advocate recommended 11.4% and the company was granted 7%.

ASSEMBLYMAN ADUBATO: Right.

MR. JACKSON: In actuality, we recommended plus 9.8% on the total 32% rate request, and we never made a recommendation of 11.4%.

ASSEMBLYMAN ADUBATO: I read that. I'm sorry I slipped up with that, but I read that.

MR. JACKSON: Okay.

ASSEMBLYMAN ADUBATO: The 11.4%, to my knowledge, doesn't exist anywhere in the Public Advocate's office. I don't know how the Commissioner got it on this paper, but it doesn't exist.

MR. JACKSON: The other area which we would dispute somewhat, is with respect to the Allstate rate increases. It shows, essentially, three, with a Public Advocate recommendation that is indeterminate, one of plus 6.2% and the other as none. We have a longstanding and continuing objection to the Allstate Insurance Company's use of any rate approved for ISO. It was made when ISO first became a bureau member, and it has continued since then. We have discussed it with Commissioner Murphy's office and his representatives on numerous occasions, and we have also taken steps to preserve the right to raise those issues in the context of an ISO hearing, the next time one is held.

ASSEMBLYMAN ADUBATO: Is New Jersey the only state in America, or is there one other state, I think, that Allstate files with ISO? I think there is another state besides New Jersey.

MR. JACKSON: Yes, I think there is one other state. I am not aware of which one it is, but I believe that is an accurate statement.

ASSEMBLYMAN ADUBATO: It is one of the Midwestern states, I believe, a small state -- a small populous state, I think.

MR. JACKSON: In fact, Allstate was the company which led the battle in the early 1950's to permit companies to become independent of a rating bureau.

ASSEMBLYMAN ADUBATO: Yes.

MR. JACKSON: It was with Allstate's departure from the bureau that, in fact, the whole classification refinement battle commenced.

ASSEMBLYMAN ADUBATO: But, I also philosophically agree that a company is, I think, better off dealing with its own experience than dealing with a collectiveness of companies who are very efficient -- and some companies are very inefficient, and then getting a balancing of a mesh. You know, ISO is an organization--

MR. JACKSON: I agree with you, and I hope that is what the State will move toward.

ASSEMBLYMAN ADUBATO: Well, that is where we want to go; I want you to know that. That is where we would like to eventually get to. And, the first way you do that is by creating a climate where Allstate says, "Hey, I don't have to get behind the ISO umbrella. I can go out there and do my own thing." And, I want them to do that. I want to make every incentive, everything that we can do that is fair, to get Allstate out of ISO and back to filing on its own. I think it is extremely important that we do that, don't you?

MR. JACKSON: Yes, but see, I think one of the problems is, I think the climate and the environment needs to be created, but I think that at the very outset any insurer who has a large enough volume to make rates independent of the bureau, should be compelled to do so.

ASSEMBLYMAN ADUBATO: I have something on the drawing board for that.

MR. JACKSON: Because, otherwise, you will never get true price competition. In fact, I think part of the debate we have with the Department of Insurance is that they have this notion that, once they set a rate for ISO, regardless of any company's experience as long as they are at the ISO rate or close to it, everything is peachy and, in fact, they will oftentimes approve rate increases for companies based on what they did for ISO, not paying any attention at all to the independent company data.

ASSEMBLYMAN ADUBATO: Based on what they did for ISO, I know that. Did you hear what he just said, Lou? Did you understand what he said?

I'm sorry to talk over your words, Jasper.

MR. JACKSON: That's okay.

ASSEMBLYMAN KOSCO: I would like to just ask one question.

ASSEMBLYMAN ADUBATO: Go ahead, Lou.

ASSEMBLYMAN KOSCO: It seems to me that the information you gathered to determine that there should have been a decrease instead of an increase-- Did you compile all this information in a four or five-day period, from the eighth to the thirteenth?

MR. JACKSON: No. In actuality -- I'm trying to think, with respect to State Farm -- are we discussing State Farm now?

ASSEMBLYMAN KOSCO: Yes.

MR. JACKSON: They actually made their application on August 26, 1982, and we made our recommendation on February 10, 1983.

ASSEMBLYMAN KOSCO: So, you had all this information available when the Insurance office was making their rate change?

MR. JACKSON: Yes.

ASSEMBLYMAN KOSCO: So, had they notified you before they made the decision, you could have made this information available to them.

MR. JACKSON: Yes. Well, we did make the information available to them with respect to State Farm.

ASSEMBLYMAN ADUBATO: I have to stop you right there; forgive me. I have to stop you right there. I admit I was thinking of eating for a minute. (laughter) I have to make sure this was the correction that was made. We're talking about State Farm's filing, the one that was in dispute.

MR. JACKSON: Yes.

ASSEMBLYMAN ADUBATO: And, we're talking about the fact that the Commissioner's office presented this Committee with a data sheet that shows that the filing was made -- the letter was received on August 26, 1982, and it says that the Public Advocate's office made its recommendation on February 10, 1982.

MR. JACKSON: Yes.

ASSEMBLYMAN ADUBATO: Which was a few months before they even wrote the letter.

MR. JACKSON: Yes.

ASSEMBLYMAN ADUBATO: So, that should be February 10, 1983?

MR. JACKSON: Yes.

ASSEMBLYMAN ADUBATO: All right, just another typographical error.

ASSEMBLYMAN KOSCO: I was confused there; that is why I didn't understand.

ASSEMBLYMAN ADUBATO: Lou, I have to admit I missed it.

ASSEMBLYMAN KOSCO: That's why I'm here, Michael.

ASSEMBLYMAN ADUBATO: I missed it; thank you, Louis.

MR. JACKSON: Do you still have a question?

ASSEMBLYMAN KOSCO: No, that's fine.

ASSEMBLYMAN ADUBATO: So then, April 4 becomes 1983, not April 4, 1982, obviously -- the date it was approved. The Commissioner's office has April 4, 1982.

ASSEMBLYMAN KOSCO: My next question was going to be, "how the heck did you get all that information in three or four days?"

ASSEMBLYMAN ADUBATO: Did you pick up the last one I just picked up?

ASSEMBLYMAN KOSCO: Yes.

ASSEMBLYMAN ADUBATO: You knew that too, okay. So, in other words, there are two typographical errors on here. They were honest mistakes.

Jasper Jackson, thank you, thank you, for all the hard work all these years. I want you to know that this Committee appreciates your hard work and appreciates your expertise. We will continue to call on you as often as you can have the patience to keep hearing from us. Is that a deal?

MR. JACKSON: That's a deal.

ASSEMBLYMAN ADUBATO: All right, thank you, Jasper.

ASSEMBLYMAN KOSCO: Just a comment, Mr. Chairman. We have been here for two days, and the most enlightening part of the whole hearing was the past hour.

ASSEMBLYMAN ADUBATO: For me too, I admit it.

MR. JACKSON: Thank you.

ASSEMBLYMAN ADUBATO: Thank you. Senator Dumont? Senator Dumont, may I just say in thirty seconds that you are very patient and, not only patient, but for you as a Senator, who is one of the seniors, if not the senior Senator in New Jersey, one of the most outstanding Senators this State has ever had, to take the time to come to an Assembly hearing, I want you to know that we are honored with your presence. It has nothing to do with the fact that you are probably going to disagree with many things, because I know you speak with conviction always. But, I want you to know, it has nothing to do with the high affection and esteem that this Chair and this entire Committee -- I think I can say that for everyone here -- feels about you and your record to the people of this State. I hope you don't mind me saying that.

**SENATOR WAYNE DUMONT, JR.:** Mr. Chairman, I might say that "flattery will get you everywhere," but I appreciate deeply, anyway, your comments.

Assemblyman Kosco, Assemblyman Thompson, members of your Committee Staff: I'll make my comments relatively brief. I appreciated the fact, Mr. Chairman, that you called me on Friday morning and said that Monday would not be good, and that I should wait until today. So, what I have to say will be, I hope, to the point, and relatively short, because I know you have worked a long time on this and that you have put a great deal of effort into it too.

As I listened to the package of bills which you outlined earlier, Mr. Chairman, I found myself in agreement with almost everything you proposed, with the exception of one thing which I will mention later. Now, the main source of complaints, of course, in our legislative district, District 24, I'm sure is the main source in every district throughout the State, that the cost of automobile insurance premiums is way too high, that it has to be reduced. Insurance people may argue about the benefits. I'm sure that people in other states are getting equally as many benefits as we do and for a lot cheaper cost. What we are concerned about here-- I voted for no-fault insurance; I'm not sure whether I did a wise thing in that, or not. It was advanced to us, legislation sponsored, as I recall it, by former Assemblyman Gene Raymond of Camden County. It was during the time of the Cahill Administration and, actually, the premiums did go down for a couple of years. Then they started shooting right up out of sight, and have been ever since that time.

These increases have to stop. As a matter of fact, there have to be some reductions, and they have to come soon. I consulted, as a matter of fact, with the Selected Risk Insurance Company, which is in our district, and which is a highly respected insurance company, not a very large one, but one that does excellent work in the insurance that they provide, with a man who actually called me prior to the time we voted on your bill in the Senate, which I think we passed last November or December. At the time, I was inclined to be opposed to the bill until he called me. Incidentally, he is a good Democrat friend of mine and I listened very, very carefully to his advice on the subject. He said he thought the legislation would help to reduce the premiums for young people and senior citizens, that Selected Risk insures under the Assigned Risk Program about -- I think he said about 4% of the people who are placed under the Assigned Risk Program, and that primarily the people that they insure, not necessarily by choice, are from suburban and semi-rural areas, rather than urban areas. He felt that your bill could

accomplish a great deal over a period of time, given an opportunity to work to get rid of the Assigned Risk Program and substitute the Joint Underwriting Association for it. As I understand it, it will take effect, actually throughout the State, on January 1, 1984.

Now, we know that the threshold amount established under no-fault, \$200.00, is just plain peanuts. Anybody can establish \$200.00 worth of medical expenses these days, in view of the high cost of living and, at the same time, that is the only foundation you need to lay to establish an action for pain and suffering -- a civil action for damages from personal injuries.

I happen to feel, and I am a member of the bar, and I know most members of the bar do not feel this way, but I don't get much chance to practice anyway, particularly in court -- therefore, I can feel this way despite the fact that I know I am in strong disagreement with many of my colleagues in the legal profession. When the attorneys say that they are worried about depriving people of the right to sue, I don't really think that is the reason they are advancing at all. That is the surface reason, but, primarily, they are worried about the income they are going to lose if there are not so many actions for pain and suffering. That is particularly true of trial lawyers. And that is not a persuasive argument, as far as I am concerned at all. As a matter of fact, I would go much higher than \$1,500.00 in the threshold amount, easily to \$2,000.00 or \$2,500.00, or even higher. I voted three or four years back, when we were wrangling over the bills that were proposed at the time by the Administration of Brendan Byrne, for a verbal threshold piece of legislation. I'm not certain at that time, or even now, that that would answer the question any more than a fixed amount would, but at the same time we know that \$200.00 is ridiculous. We have to get rid of it, and raise it substantially and quickly to a higher amount.

I also agree with you on the question of the medical fee bill and the fraud bill. I have no problems with any of those.

There is one thing you mentioned with which I would be in disagreement, and that is the question of the statewide rate. We haven't used a statewide rate in many ways in New Jersey. For example, years ago, as a result of an investigation which we conducted -- a committee on which I served as Chairman for a time -- into the operation of Blue Cross and Blue Shield in New Jersey, and really that came about as a result of editorials and news comments that were made, I think, by the Star-Ledger primarily. We looked into it very carefully, and one of the pieces of legislation that I sponsored personally after that was one that the Blue plans wanted very badly, which gave them the right to experience rate, a right that they had never had prior to that time, and they have used it effectively to hold down costs throughout the State and, obviously, their experience in various parts of the State and with different groups has convinced them that there ought to be different rates.

The same way with the prevailing wage rate, which we established by legislation some years ago. That rate is not the same in all areas of the State. It differs according to the different conditions, because the cost of living is not the same throughout all of New Jersey. It is higher, usually, in the urban areas than it is in the suburban or semi-rural areas. It is hard to categorize any part of New Jersey as rural anymore, because we all realize we have the highest density of population per square mile of any state in the nation, and we have traffic densities that are seven times higher than the national average, traffic densities using the Turnpike and

other roads, not just toll roads, but so-called "tax-paid free highways" throughout New Jersey, other than the toll highways.

So, we know we have peculiar problems in this State. But, I think it is a shameful distinction to be the highest state in the nation in automobile insurance rates. As a matter of fact, when I spoke with you on Friday, and when you mentioned the fact that-- I said to you at the time that I often thought about sponsoring legislation to do away with the mandate for automobile insurance entirely. I agree with you completely when you recommend that. I hope you put that bill in soon. My wife doesn't think that is necessarily a good solution in New Jersey, but at the same time I happen to think that we are not going to have any more people uninsured than we do today with mandated insurance. Perhaps a lot fewer, in fact, than we have today. If we are not going to enforce the mandate to the extent of where we have 500,000 or 600,000 or maybe more drivers not obeying the mandate, then what good is the mandate anyway?

We used to laugh, when I first came to the Senate in Trenton in 1952, about the fact that Massachusetts was at that time the only state in the nation that had mandatory automobile insurance coverage, and it wasn't working well there. That's why, in the early 1950's, we adopted a different plan. From the provinces of Canada and, I think, from the State of North Dakota, we got an Unsatisfied Judgment Fund type of program. It was sponsored at the time by former Senator John Summerill of Salem County, because in those days we only represented one county at a time. It was long before we got into the redistricting required by Baker vs. Carr in the Supreme Court Decision of the middle 1960's. We had very few problems in those days, because people that could prove that they sustained personal injuries or property damage, or both, as a result of an uninsured driver, particularly one from outside the State, could, if they could prove their claim, be compensated out of the Unsatisfied Judgment Fund. It worked fine for many years. Then, we got into no-fault insurance and compulsory insurance and so forth, and that hasn't worked too well.

So, I think we badly need changes, and we need them fast. I hope we don't get tied down in a bureaucratic maze with them, and I'm not talking about party lines. That is not something that worries me to any degree at all, never has. If it were not for all the Democratic votes I get, I'd never get elected in our own district. So, I can't be concerned about that.

The point is that what we have here today is a result of mistakes that probably all of us have made, and I may have made more than anybody because I've been here longer than any other legislator at this point, in either house. But, at the same time, we have to correct those mistakes, and correct them quickly. For example, I don't think we need twenty departments in the Executive Branch of the government. I haven't thought so for a long time. I voted against all those that have been created since the middle 1960's, as a matter of fact, except one, and that was one that absorbed another department and, therefore, I thought we would give it a try. I think there are many departments we could eliminate, not for the purpose of firing people. Mass firings or layoffs is not the way to do it. That only worsens an economy. The way to do it is to work through attrition, resignation, retirement or death, and not fill many of the jobs that would be left unfilled when those three things, or any one of them, happens. And, I have bills in to eliminate the departments. It is no secret as to the ones I have a target on, as far as that goes.

I hope that you can do this, that we can do it in the Legislature as a whole, and that we can get bipartisan support for all of these things, with the one thing I have some problems with, and that is the statewide rate, and that we can move quickly and effectively to provide the people with the relief I think they deserve particularly, and that they need very badly. I cannot believe that a half million or more people cannot afford liability insurance. We know the kinds of systems some of them are using to avoid it, and to get around it, and, if we are not going to have a mandate that works well, because of the fact that it is not being enforced, or that people in wholesale numbers are avoiding it and winking at it, then it is about time we changed the system.

That is really all I have to say on this subject today. I appreciate the opportunity to be here and to be heard by you. You can rest assured that, for the most part, you will have no problems with me when you come up with a program as you outlined it today.

ASSEMBLYMAN ADUBATO: Senator, before I turn the mike over to Assemblyman Kosco and Assemblyman Thompson, there are two things I want to talk about, one, not dealing with the issue of the day. I remember sitting on this floor not too long ago and the entire Republican party leaving.

SENATOR DUMONT: I remember that.

ASSEMBLYMAN ADUBATO: And the only people who were on this floor were Democrats.

SENATOR DUMONT: That's right, and you passed a bill of mine.

ASSEMBLYMAN ADUBATO: And, I remember Senator Dumont coming to me and saying, "Mickey, I need your help. Would you sponsor this bill?" I said, "Absolutely." I don't think I flinched; I hope I didn't flinch.

SENATOR DUMONT: No, you didn't. As a matter of fact--

ASSEMBLYMAN ADUBATO: I said, "Absolutely," and I remember a few of my colleagues ribbing me and saying, "See, we knew all along you were a Republican. You're moving all the Republican bills." But, you know, I want you to know, sir, that was one of the proudest days of my life.

SENATOR DUMONT: Thank you very much.

ASSEMBLYMAN ADUBATO: To move your bill, because as a high school kid working in a gas station, up north somewhere, for my uncle, I never knew that he was your chauffeur when you ran for Governor -- Adam Adubato.

SENATOR DUMONT: Yes, I do remember.

ASSEMBLYMAN ADUBATO: Yes, you do remember. But, I never knew he was your chauffeur, and I never mentioned it to you. I hope I'm not embarrassing you now by mentioning it to you.

SENATOR DUMONT: Not at all, because I used to--

ASSEMBLYMAN ADUBATO: By the way, he is retired, and he said if you ever run for Governor, he'd vote for you again.

SENATOR DUMONT: Well, give him my best, please, and tell him thank you very much.

ASSEMBLYMAN ADUBATO: I hope you don't mind me going off into that.

SENATOR DUMONT: Not at all.

ASSEMBLYMAN ADUBATO: I would like to take an opportunity, Senator, to try to clarify something I said that may have misled not only you but other people here. When I was referring to a statewide rate, I couldn't agree with you more about the cost of living, the cost of hospital expenses, the different regional costs, not only outside the State, but within the State, North Jersey, South Jersey--

SENATOR DUMONT: Right.

ASSEMBLYMAN ADUBATO: I couldn't agree with you more. The PIP rates are certainly fluctuating that way, where in the lowest rated territory they are paying \$116.00 a year for PIP, and in Newark we're paying \$228.00 a year for PIP. That is a fact of life that I do not enjoy, but I can understand some of it. I don't like the degree, quite frankly, because I don't think it has been substantiated factually -- factually. Not that there shouldn't be differences, but I just don't think there should be that great a difference. But, I am not even fighting that. I am not attempting to change that. Some other person here -- I won't mention his name -- suggested that he thought I was talking about leveling that. You know, where everyone would pay the same costs for that PIP. That is not what I meant. If that is what I said, I apologize. That is not what I meant to say, if I did say that. What I was talking about was that when a person -- again, going back, as you so-- I should have had you first.

SENATOR DUMONT: No.

ASSEMBLYMAN ADUBATO: No, I should have had you first, because you gave us a lesson from 1952 that would have helped everybody, I think, and I am not trying to butter you, just telling you the truth. What I was saying is, from 1972, we had 15% of the automobiles in this State on the road uninsured, and we did not have compulsory insurance. From that time until now, we have compulsory insurance, and we have about 12% uninsured. What I was saying was, a flat rate is a two-pronged attack at getting people on the road with insurance -- liability, not PIP. I'm not talking about PIP. PIP would be compulsory, and that differential would exist as it does today. It wouldn't change one penny. Unfortunately, the good people in Newark would still have to pay the \$228.00 and other people would have to pay the \$116.00.

What I am talking about is that when you take the voluntary market, and you take the residual or the assigned risk market, and you combine them, 28% of all the people with insurance that are on the road carry only the compulsory of \$15,000.00, \$30,000.00 and \$5,000.00. Now, when you add that 28% with the other 12% that are uninsured, we get 40% of the market who either have no insurance or certainly is not protected enough for someone -- if I'm involved, or someone out there middle class, or anybody is totally disabled and you have to resort to tort, you are either going to get nothing or go to the Unsatisfied Claim and Judgment Fund, you know what that is, or you are going to be covered by \$15,000.00 -- by 40% of the market. That's the way it is now. And that I am told by the experts in the industry is a very costly part of the system for many, many reasons. One of those reasons, not the most important, but one of them, is that you pointed out how people circumvent the law. They get an insurance card, they pay a partial premium -- they get the card and that's it. They never pay another premium.

SENATOR DUMONT: And, they don't return the card either.

ASSEMBLYMAN ADUBATO: And they never return the card. But, more important, as important as that is, the agents today, if they get a 40% payment, and let's say the premium is \$1,000.00, and let's say that their commission is 10%, for the sake of discussion, on the \$1,000.00, the applicant pays \$400.00, but the agent doesn't take out 10% of \$400.00. He takes out his total annual commission, based on only a 40% payment, which means that the agent has gotten \$60.00 over and above what he has earned. The company does not get \$360.00; it gets \$300.00. Now, the guy lapses. Not only is he driving illegally, not only are all these other things in there, but the company paid out a commission on a premium they never got and, when

they come back to the Insurance Commissioner and file, they carry that \$60.00 as a loss, and you and I, and everyone else in this room, pays for it. Meanwhile, the agent got a commission on a value that was never paid.

Now, that runs into some millions of dollars a year. That is a value that we all pay to subsidize agents, and to subsidize people who are breaking the law. The bottom line is, you are subsidizing the companies, because the companies have never fought this. I was outraged when I learned about this when I was chairing the ad hoc committee and, when I presented that to some of the company people, they did not want to deal with it.

ASSEMBLYMAN THOMPSON: Mr. Chairman, may I ask you a question? He's an attorney, and he might appreciate this.

ASSEMBLYMAN ADUBATO: No, wait a minute.

ASSEMBLYMAN THOMPSON: Okay.

ASSEMBLYMAN ADUBATO: Now, what I was talking about, Senator, in leveling, was-- I can't prove anything on this point. It is a belief; it is not a proof, and I admit that. But, I can factually state what happened before no-fault, and what is happening now. That is a fact.

What I suggest is that if we allow those people who are in that 28%, and those people who are in that 12%, the opportunity to buy liability, not PIP, up to a minimum amount-- I'm not talking about if they want to go out and buy \$300,000.00 worth of liability; they're going to pay the same as everybody else. A minimal amount-- I suggested \$50,000.00 -- that that \$50,000.00 of liability, if a person has to go out, once you eliminate liability, he has to go for financial responsibility, which means he has to have a bond or some other means. If he has to go out and buy a bond, and we say, "You have to prove financial responsibility up to \$35,000.00 or \$40,000.00 or \$50,000.00, he has to pay for that bond. He doesn't get it for nothing. So, if you keep PIP compulsory, he is paying this PIP. If he has to buy a bond, he has to pay another premium for the bond, but for, maybe, an additional cost that is above the bond, but not that much above the bond, we can provide him with \$50,000.00 worth of liability insurance, and you may go up in your premium a buck. You may go up a buck, but for that buck, what you have done is protected yourself against 40% of the people out there who are either uninsured or not insured. The bottom, bottom line is that today, in Newark -- and I say "Newark" not just because I want to be parochial and I love Newark, and I love the people better in Newark, and I know you do, but because Newark is the most discriminated against municipality in the State of New Jersey, and has been for many, many years. The productive people who live there, the people who are contributors to society, the people who pay their taxes, who go to war, and don't complain, are subsidizing, not only the people who are not productive in Newark, we are subsidizing all the suburbs too. And, we do it because that young man in Newark who wants to have liability insurance today has to pay \$2,000.00 a year for \$15,000.00, \$30,000.00 and \$5,000.00. That is not fair. It is beyond--

When I started in the ad hoc committee, in the first report I showed an eighteen-year-old's profile, including liability, collision, and comprehensive, whose premium, according to ISO, was \$1,795.00 a year for a simple Chevy automobile that was three years old, which is like a Chevette. We used the Chevy Nova as the example then, but the Chevy Nova doesn't exist anymore. Today, with that same simple -- that same coverage, according to ISO, that young man is paying \$3,932.00 a year for \$15,000.00, \$30,000.00 and \$5,000.00 liability -- \$200.00 deductible collision, \$50.00

comp and uninsured motorist coverage -- and the same car, same driving record and same age. Make it a female living in Bordentown, which is a nice place--

SENATOR DUMONT: Yes, that's right.

ASSEMBLYMAN ADUBATO: -- or Plainfield, which is a nice place -- she is paying \$392.00. What I am saying is that for three years, not for ten, like we did, because I think that is too long to address something, but we need some kind of a trend, we need some kind of a track record. I don't think a year is enough time. I'm hoping three years is enough time to establish a creditability of what impact we're making. I suggest that in that three years your premium may go up for that portion, a buck, but what is going to happen is that, instead of 15% of the market driving uninsured, you may have 3% or 2%, because they can afford it.

SENATOR DUMONT: I hope you're right.

ASSEMBLYMAN ADUBATO: And, again, I cannot factually prove that to you, Senator, but I want you to know that when you told me-- Before A-1696 was voted on, you came up to me and you said, "Mickey, I was against your bill. It was going to sadden me if I had to vote against it, but I want you to know Select Risk called me." And, I want you to know, Senator, that Select Risk is one of the companies, from day one, which has been very cooperative, along with Prudential Prupac and several others, but those two companies, more than anybody else, from day one -- especially Prupac and Select Risk, have bent over to be more than fair and have not done anything that was not in their self-interest. Just like I never want any company not to do anything that is in their self-interest. But, you know, they sensitized a lot of other people. I found out that at Allstate, they're not such bad people. At State Farms, they're not such bad people. At Aetna, they're not such bad people. I think that once you forget the history of New Jersey and the rhetoric and the hard times, and you deal with today in a give and take manner, Senator, I'm extremely hopeful that, with your help -- and I want you to see the total package. I want every opportunity to talk to you and I want you to help us. You know, I guarantee you the things you want will be in that package. I am not saying I am going to be totally satisfied, and I'm not saying that you will be totally satisfied, but I would ask you, as you have always done in the past, to just give it the same attention you give everything else. That's all.

SENATOR DUMONT: I certainly will, Mr. Chairman. Thank you.

ASSEMBLYMAN ADUBATO: Gene, did you want to ask one question?

ASSEMBLYMAN THOMPSON: A couple.

SENATOR DUMONT: Well, you can ask more than one; go ahead.

ASSEMBLYMAN ADUBATO: I didn't want to keep you, Senator, I'm sorry.

ASSEMBLYMAN THOMPSON: First of all, Senator, before you testified Senator Laskin came up with some concepts that I am certainly going to weigh. One is the possible abolition of the no-fault system, and going back to the fault system, which would be a lot different than the old fault system in New Jersey, because he is talking about a bill dealing with fraud, a bill dealing with licensing auto body and mechanic shops, and some criminal statutes to deal with collusion, as far as sending people to certain agencies, and things like that.

I was wondering if, after you read that bill, you would be interested in entertaining that type of concept, since it seems that no one has the right formula on this whole question of no-fault, of going back to

the old fault system where everybody had a day in court. This has an arbitration system built into it, and a lot of other things.

SENATOR DUMONT: Well, I don't think that the system we have had now since 1972 has been any improvement over what we had before that time. In fact, I think we have gone backward rather than ahead, if anything. There is one thing I might take a little issue with. I am not a great believer in arbitration. Primarily the problem with it, and I have dealt with it in respect to boards of education, is that, of course, if the parties agree to arbitrate, then they are bound by that agreement. An arbitration decision is often made by people who have nothing to do with law at all. Now, that doesn't mean that they all have to be attorneys; that is not what I am talking about. I think maybe one of them on the panel ought to be. But, when none of them are, what you will very often have happen, is that they will decide legal questions without any legal background, and then when you take an appeal, or you try to take an appeal from that decision to a court, the judge will say, and I have had this happen, "Well, I can't entertain the appeal, because the parties on both sides agreed to arbitrate and, therefore, they are stuck with arbitration. So, I won't listen to the appeal." The result is that you really have no appellate process involved in it. Frankly, this is why I voted against binding arbitration for policemen and firemen, and why I would vote against it, probably, for any public employee.

ASSEMBLYMAN ADUBATO: Senator, forgive me for interrupting--

SENATOR DUMONT: That is the problem I have with it. Other than that, I would be glad to join you in going back to what I think was better than what we have today, and that is the old system.

ASSEMBLYMAN ADUBATO: However, Senator, you base your opposition on the fact that people who are there doing the arbitrating, for the most part, are inexperienced with the law.

SENATOR DUMONT: They are, that's right.

ASSEMBLYMAN ADUBATO: I did not say this.

SENATOR DUMONT: No, I know you didn't say it, Mike.

ASSEMBLYMAN ADUBATO: No, no, I did not say publicly-- All I said was arbitration.

SENATOR DUMONT: Yes.

ASSEMBLYMAN ADUBATO: I want you to know that when we talk about arbitration, we're talking about judicial arbitration. We are not talking about arbitration in the system that is out there, where school boards or whatever arbitrate over something. We're talking about a judicial arbitration. From this little column here, (Chairman indicates material he is referring to) -- it was printed in here about twenty-five retired judges returning to the bench in seventeen counties, you know, at a fixed fee, like of \$125.00 a day, almost like a voluntary service. These are people who not only were attorneys, but also served as judges. This is what I am hoping to get to.

SENATOR DUMONT: That's all right.

ASSEMBLYMAN ADUBATO: With that kind of a system, where people understand the law-- I totally agree with you. What you brought out -- you see, you are bringing out things that clarify things I said, because I know I haven't said them. But, you're picking out the holes and, in doing that, you give me an opportunity, you know, to say, "Hey, yes, I did say arbitration," but everyone here knows that I was talking about judicial arbitration, to meet your objection, I hope.

SENATOR DUMONT: Well, binding arbitration is certainly not the only kind of arbitration. That is the one I have a problem with. As a matter of fact, I have to say very frankly, when I first came down here, for years after that, I thought there were far too many lawyers in the Legislature, and I can understand an attorney running because of the fact that he has a background that is very helpful in the drafting and presentation and passing of legislation. But, I expect every attorney who comes here to take a broader concept than simply the special interest that his profession might relate to, and to work on behalf of all the people in the State, and not on behalf of his profession. I expect the same thing of doctors when they come here too. We haven't had too many doctors over the years, because they won't take the time.

ASSEMBLYMAN ADUBATO: And dentists, and insurance men like me, Senator.

SENATOR DUMONT: But, the point is, Gene, that while I like to see everybody live well, I don't like to see anybody live excessively well, at the expense of other people. I have been here long enough to know what the sacrifices are that you are involved in, and that your families are involved in, if you are going to serve here and give it the kind of time and effort that it deserves, and which is absolutely necessary if you are going to do the job right.

ASSEMBLYMAN THOMPSON: I have a suggestion and, Mr. Chairman, I want you to hear this. It might clear up the question you raised dealing with where an agent writes a policy out for a client, and what happens is it lapses, all right? Maybe we could work it out this way.

ASSEMBLYMAN ADUBATO: Forgive me for interrupting you, but it is already worked out. The JUA bill provides it.

ASSEMBLYMAN THOMPSON: All right. Let me give you a suggestion.

ASSEMBLYMAN ADUBATO: It's over January 1, 1984; they can't do it anymore.

ASSEMBLYMAN THOMPSON: Let me explain something to you.

ASSEMBLYMAN ADUBATO: Go ahead, continue.

ASSEMBLYMAN THOMPSON: This is something that you may take into consideration. What happens when a lawyer receives a client in his office, and say hypothetically, it is a no-fault divorce, all right? And, the client gives the lawyer, say \$2,000.00. Technically, that money is not the lawyer's money until the final judgment. What you could do to prevent a lawsuit, because I can see some things where agents might go to court in reference to this particular piece of legislation, you could write it in where that money is not the agent's money until the policy is paid in full. Now, if it lapses, you might have to give him something which we call "quantum meruit" under the law because he did do some paperwork and he did write the policy. Do you understand?

ASSEMBLYMAN ADUBATO: I think it is an excellent suggestion, I really do, but, unfortunately, we already did that. Make an amendment. Senator, thank you very much for coming down here. I appreciate it very much on an off day.

SENATOR DUMONT: My thanks to all of you. I appreciate deeply your time and, also, the effort you are putting in. I hope you are going to be successful quickly.

ASSEMBLYMAN ADUBATO: Thank you, sir. With your help we certainly will.

SENATOR DUMONT: It was nice to see you. Thank you.

ASSEMBLYMAN ADUBATO: I would like to conclude these meetings. However, I will not conclude them without taking notice of the fact that we have, I hope, been fairly critical of some of the events that have gone on, and we have been fair in giving credit to the same people we criticize, because they deserve it. However, the attorneys off and on are accused, for whatever reason, of being the problem and, you know, I don't want to get into that whole litany, except to say here publicly that the State of New Jersey owes a great debt of gratitude to the attorneys of this State, especially to those people from LEGAL, who for many, many years struggled and supported the changing of those inequities in the system. I do not want that to go unnoticed. I want you to know that it was gratifying to me to have the people from LEGAL work with us in changing the system, as we have already done. I know it is words, but as opposed to some people in the Administration, and the previous Administration, who have said to me as the sponsor, "You support this, and I'll sign that." For the record, LEGAL never once mentioned anything to me about their position when they took up the torch about eliminating the assigned risk. In fact, because of the misinformation that Mike Adubato received in the early seventies and in the mid seventies, I was an outspoken supporter, in writing, of the verbal threshold as being necessary, and LEGAL knew that from day one. I want you to know, publicly again, as corny as it may sound, because, you know, we would rather hear about cynicism than fact, the facts are that I'm proud of their help, I appreciate their help, and the people of this State may never know just how dedicated these people are, but I know, and I thank them for it publicly.

This hearing is adjourned.

(HEARING CONCLUDED)