
Committee Meeting

of

JOINT COMMITTEE ON AUTOMOBILE INSURANCE REFORM

*“Testimony regarding private passenger automobile insurance rating,
risk classification and related issues”*

LOCATION: Committee Room 11
State House Annex
Trenton, New Jersey

DATE: February 4, 1998
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senate President Donald T. DiFrancesco, Co-Chairman
Assembly Speaker Jack Collins, Co-Chairman
Senator Gerald Cardinale
Senator Joseph M. Kyrillos Jr.
Senator Richard J. Codey
Senator John H. Adler
Assemblyman Paul DiGaetano
Assemblyman E. Scott Garrett
Assemblywoman Clare M. Farragher
Assemblyman Joseph V. Doria Jr.
Assemblyman Joseph Charles Jr.



ALSO PRESENT:

Thomas K. Musick
*Office of Legislative Services
Committee Aide*

Laurine Purola
Jarrod C. Grasso
*Majority Staff
Committee Aides*

Tom Hastie
Tim Clark
*Democratic Staff
Committee Aides*

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Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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ASSEMBLY SPEAKER JACK COLLINS (Co-Chairman):

Ladies and gentlemen, we're going to get started. Thank you for your patience and particularly -- prior to calling them to testify -- the patience of those who returned, who were on the list to speak at our last meeting.

Today, we will have a continuation of the topics that we were talking about at the last meeting and then move into, at least what I would say, more particular aspects of either the current insurance policy/laws that we have now and then some suggestions for changes in a particular sense other than elimination of no-fault, elimination of this, change in that.

But first off, we would like to call to testify Walter Bliss of the New Jersey Counsel of the Alliance of American Insurers, and Elmer Matthews, New Jersey Counsel, American Insurance Association.

And again, gentlemen, thank you very much for coming back from the last meeting. Your comments are with regard to the threshold and where we are.

Thank you.

ELMER M. MATTHEWS, ESQ.: Thank you, Mr. Speaker, Mr. Senate President, members of the Committee. We appreciate the opportunity again to be back before you. You had asked us to return to make some recommendations in the area of reform. And we thought, as the principal trade associations, that Walter Bliss and I would testify together and try to bring our focus to the Committee that way to show some unanimity, if that's possible, among the industry. I've always laughed about the fact that they have an Antitrust Act. If you get 10 insurers in a room, it's like getting 11 lawyers in a room -- you get 12 opinions.

But what we want to talk about today is initially the dysfunctional market, which we have here in New Jersey. There's no question about the fact that we have a situation where we have a prior approval rate system where the filing is almost monumental as far as volume is concerned, time period, and rates, that are essentially political because of the fact that we have experienced over the last 20 years situations where administrations have said there will be no further rate increases during this administration. This contributes to this dysfunctionality and is probably the reason why five out of ten of the major writers in America do not write auto insurance in New Jersey. This, coupled with the fact that we have a rather severe lock-in law, prevents people really from coming into New Jersey, because once they come in, they're afraid that they cannot change or alter their book of business and ultimately cannot leave.

So this is the setting for what we're saying this morning, basically a dysfunctional market -- a dysfunctional market that has contributed to the lack of profitability over the last 10 to 20 years in New Jersey. Only at the last meeting, Dan Waldman of ATLA, my good friend, referred to the soaring profits of auto insurers. And it always touches my risibilities rather than my sensibilities when I hear something like that, because the laws we have in effect in New Jersey prevent anything from soaring, much less rates.

We have in New Jersey a rate formula system that is based on the so-called Clifford formula that allows 3.5 percent of predicted profit -- 3.5 percent on premium. So when-- And that 3.5 percent includes investment income. So when you're in a situation of predicting what your rates are going to be in a market like today, you start out with a predicted underwriting loss

situation, hardly the type of procedure that a business wants to approach when it comes into a state.

We also have the strongest excess profits law in the country. Very few of the states have excess profits laws for auto insurance, but New Jersey has it, and it is the strongest. And the excess profits law in New Jersey says that you cannot have more than 2.5 percent above your predicted profit over a three-year period. Add 3.5 to 2.5 and you get 6.0. And anything over that must be refunded to your policyholders. A regulated industry predicting only 6 percent--

SPEAKER COLLINS: Elmer.

MR. MATTHEWS: Yes.

SPEAKER COLLINS: If I may, just for my education. It's come to my attention in the last week or so that some companies have been sending moneys back to their policyholders. Should I assume that that is because of the excess profits law?

MR. MATTHEWS: Probably predicting the excess profits law, that could be the case. I heard those same figures, Mr. Speaker, and I took the liberty of contacting the Department -- the specific section of the Department of Banking and Insurance that has to do with excess profits. And they answered my request as to how many companies have paid back an excess profit in this decade, since 1990. Interesting enough, the number is five out of the seventy-some companies that write, and you have to multiply that by six years because the 1997 figures are not yet out. And of those five companies, I think three of them-- Their book of business was lower than 2000 cars. So any idea that excess profits are rampant in New Jersey is strange. You could

be confused also by the fact that there are mutual companies that do return dividends to policyholders, which also casts a different light on this.

But despite all these things, we still come back to the situation. We are approaching insurance reform in New Jersey in a dysfunctional market. Now, we've talked to you about what we think ought to be done, and you asked us really to come back and talk to you about what our recommendations would be and how they would transmute into numbers. And I don't want to sound like a broken record, but it would appear that, first of all, the abolishment of no-fault is not the answer. The abolishment of no-fault, despite the testimony of Mr. Schwartz on behalf of ATLA a couple of weeks ago, will actually cause a 15 percent increase in premiums levied against New Jersey policyholders and not the 10 percent to 20 percent reduction that Mr. Schwartz indicated to you a couple of weeks ago.

I've taken the liberty of filing with the Committee a letter from an independent actuary, Mr. Rapp, who testified here a few weeks ago. Analyzed it, Mr. Schwartz's study, showing this 10 to 20. That's a pretty broad scale, 10 percent to 20 percent rate decrease by doing away with no-fault. And you'll find that within that letter he finds all of his computations -- and I use that big word advisedly -- actuarially unsound.

I don't think doing away with no-fault is the answer. I think the answer is taking cost out of the system. And I feel the fat lady's ultimately going to sing and we are going to take cost out of the system when this Committee finishes. Because we've tried so many other things. Now, taking costs out of this system almost sounds simplistic now because we've talked about it for so much. But just think what the three items we're referring to are.

One is restoring validity to our verbal threshold. We talk about replacing it and we recommend replacing it with the Michigan verbal, which will take costs out of the system, or if it's your bent, use the existing New Jersey's threshold, which originally was the New York threshold, and tighten it up. And Walter Bliss is ready to testify on ways that that can be done to realize real savings. Secondly, we recommend just looking across the Delaware, as Washington did in reverse, and utilize the programs that are in effect in Pennsylvania. That is the peer review and the Medicare fee schedule.

Now, when I talk about these three items, I say they are going to take costs out of the system. And we predict that if these three items are drafted correctly, a minimum of 10 percent reduction can be effectuated by the adoption of those items in New Jersey. You have to realize that the devil is in the details here -- a Michigan threshold, a PRO section, or a Medicare fee schedule. If it's not valid, if it's not true, if it isn't aimed at taking out costs, will not produce that kind of result. So we have to rely on the true utilization of those three items to do that. And I'm sure that when we do those three items that you will effectuate a, at least, 10 percent reduction.

Now, it's interesting to note that all of these items are contained in a vehicle that is now before the Senate Commerce Committee. I'm talking about Senate 165, which is Senator Kyrrillos' bill. I don't want to single him out as the savior or the solution of all the problems, but I think his bill presents an excellent framework within which you can operate to effectuate real, real reform.

Now, beyond that 10 percent, I think that you could increase reductions up and even above the 15 percent range if we gave the policyholders

some choices. And I'm talking about uninsured motorists coverages, which is mandated in New Jersey. I'm not saying that you should abolish those. I'm saying give the policyholder the choice, not only the choice of taking it at all, but the choice of only covering economic damages.

In New Jersey, we have high PIP level, the PIP level of \$250,000. If you limit it to economic damages, there really is no reason to have it because statistics have been presented to this Committee that probably less than 10 percent of all the bodily injury claims -- and I'm talking about economic loss claims -- are within that 10 percent range. That would predict additional savings. Another thing that you could do would be to reduce PIP coverages, if you wanted to do that. And depending upon the amount of reduction, it will impact upon the cost of that coverage.

You've got to be very careful when you're doing these choice things, because they all intermingle and doing one without the other has an impact on costs.

The third thing you could do is to allow the purchase of a minipolicy, and you've heard that over the last four or five years. But there is a real choice to allow a person, if he wishes -- no mandate here -- if he wishes to buy coverage that is sufficient for his own situation. Senator Kyrillos' bill has a minipolicy in it with coverages that are restricted, but coverages that allow him, the policyholder, or her, to purchase what he needs or she needs to protect yourself.

We at AIA and the people at the Alliance stand behind what we have said. We firmly believe that the numbers we advance -- the 10 percent for those three mandated ones and the additional 5 percent or even 6 percent

for the other coverages -- can realize that kind of premium saving. And we not only are willing to work with you on it, but we're willing to stand behind what we are saying to you this morning.

Finally, I just want to touch one other thing, and I realize I've talked for about 10 minutes already and I haven't let Walter even open his mouth. I promised Walter that I'd talk only this amount of time. I want to touch on something that we won't be able to talk on, on Monday, because we're not on the witness list. And that's on fraud. Fraud has been kicked around politically as something that the insurance industry has been very lax on and remiss on. And because we've been lax and remissive, fraud is rampant in New Jersey.

All companies licensed to write automobile insurance in New Jersey have special investigation units, SIUs, that requires them to review their policy claims for fraud. We also are required to advise the Department of those fraud numbers and claims. This is a statutory mandate. In addition, since the middle '80s, the New Jersey Fraud Act, which created the Division of Fraud in the Department of Insurance, is funded by the insurance industry. The original bill creating the Fraud Division had a cap of \$500,000 on the assessment of the industry for the Fraud Division. That cap was lifted in 1988 and the expenses of the Fraud Division have increased dramatically. At least, we think they've increased dramatically, because we are being assessed for those costs.

Last year our assessment, as an industry that is, the auto industry, was \$14 million. We know this because it's in the Governor's budget. And we know it because we pay it. And we know also that of the \$14 million, 2 million

of that 14 million goes to the Attorney General's Office to pursue whatever fraud the Department of Banking and Insurance is railing against, if you will. I would suggest that we analyze what kind of a bang we're getting for our buck out of the Fraud Division. Fourteen million dollars is a lot of money. I could run a pretty good law firm pursuing fraud on \$14 million. And I think the least that we can expect is some report to the Legislature -- because it seems to be a political issue -- this issue of fraud -- some report to the Legislature as to what is being effected by this Division.

I don't want to leave the fraud issue without one example. One of our New Jersey domestic companies, the year before last, spent \$185,000 roughly financing its SIU. As a result of that, it recovered over \$2.5 million in fraudulent claims. I understand the Fraud Division, two years ago -- the one that's in the Department of Banking and Insurance -- realized, from our \$14 million contribution, \$2 million. Something doesn't add up, and I'm not accusing anyone of not doing what is right. Obviously there's a lot of fraud out there; maybe they're overwhelmed in the Department. But I would like to see someone in the Fraud Division testify before this Committee and ultimately some accountability. I asked that it be put in the enabling bill last year that hired the additional 50 fraud investigators, but unfortunately, it was not adopted.

I would just like to pass the torch now to Walter and exhort you, as members of this Committee, to get together in a nonpartisan manner really and solve these problems that have rankled the New Jersey policyholder for now almost 30 years. This Committee, perhaps, is the most excellent -- if you can use a double superlative -- vehicle to solve this problem for the first time

involving leadership in both the Majority and the Minority. I wish you well. I also extend to you a hand of cooperation to give you any information, actuarial or otherwise, that will help you.

Walter.

WALTER R. BLISS JR., ESQ.: Thank you, Elmer.

Mr. President, member of the Committee, I'm Walter Bliss for the Alliance of American Insurers. I would like to focus my testimony on the verbal threshold, if I may.

Speaker Collins asked at the last hearing whether there is a silver bullet for reform -- whether there's a single reform which will solve all the problems of New Jersey's automobile insurance system. I think the consensus is, there is not. But in saying so, I would like to stress -- or in agreeing with that proposition I would like to stress that there is indeed before this Committee a real opportunity both to reduce the costs of insurance and to save and maintain the social benefits of the no-fault insurance system. Mixing metaphors a bit, there is a very big bullet here, and how much reform we get in this round of legislative hearings is largely going to be a function of how hard you want to bite that bullet. The big bullet is nonpermanent, soft-tissue injuries.

Given that our current law guarantees medical treatment and rehabilitation for nonpermanent, soft-tissue injuries, can we also afford to have this type of injury the core of a litigation system in which the costs of resolving claims far exceeds the moneys which ultimately reach the injured person? I submit to you that the answer is no. We cannot afford this dual system. The

extent to which nonpermanent, soft-tissue injuries are the core of our litigation system has been reflected in some of the earlier testimony.

I've brought with me today a graph, a graph which is simply a translation of tables that are in a certain 1991 closed-claim study in New York which studied the New York verbal threshold, which is identical to ours. This graph shows dramatically that claims in Categories 8 and 9 of our verbal threshold -- Categories 8 and 9 are nonpermanent, soft-tissue injuries. Those claims -- the two large bars at the far right of the graph (indicating) -- those claims, Categories 8 and 9, represent 60 percent of the bodily injury frequency of the claims filed on the bodily injury coverages. And they represent 40 percent of the dollars in the bodily injury system. These Category 8 and 9 claims also represent those claims which are most frequently the subject of abuse under the PIP system with overtreatment and overtesting.

If you eliminate Categories 8 and 9, assuming then hypothetically that there wouldn't also be a migration of claims from the soft-tissue nonpermanent into the permanent category, you would effectively eliminate 30 percent to 40 percent of the BI costs in the system. That's the bullet. The question is, are we ready to bite it?

There are a range of reforms that you can consider. And I would classify them as a spectrum -- low end, high end. At the low end really, you have tightening of the current threshold, tightening up the language in various respects. An example of such tightening, not necessarily the definitive authority on such tightening, but-- An example of such tightening is in, from last session, Assembly Bill No. 2554, Assemblyman Garrett's bill. That would tighten the New Jersey threshold. Another example of such tightening is the

adoption of the Michigan threshold, which effectively eliminates Category 9 under the New Jersey law and tightens Category 8 and also eliminates effectively minor fractures in Category 4. That's at the low end.

At the high end, again, we have elimination of 8 and 9, and a strengthening of Category 7 -- Category 7, which in that New York closed-claim study represented only 5.4 percent of the claims. And to refresh your recollections, I have another chart on the various categories in the verbal threshold. Category 7 is that permanent, consequential limitation of use of a body organ or member. Limitation of use typically interpreted means impairment.

In this New York closed-claim study with this wide open 8 and 9 -- remember, a threshold is only as strong as its weakest link. So Categories 8 and 9 are the weak links. They consume a lot of claims. And if you eliminate 8 and 9, there will be a tendency for some of them to migrate up into 7. So you've got a strength in 7. Right now, 7 doesn't require any permanent, consequential limitations of a use of a body organ or member be a significant limitation. The part of the verbal threshold tightening with elimination of 8 and 9 would have to include a tightening of 7 to ensure essentially that the line between the right to sue and not to sue -- not the line between the right to receive treatment and non, and not the line between the right to sue for economic losses and non -- but the right to sue for pain and suffering is defined as significant, permanent injury.

If you have significant permanent injury, you have the right to sue. If you don't have it, you have the right to treat only and the right to

rehabilitate and the right to get your economic cost back. And under the no-fault system, those costs are guaranteed.

These threshold changes, however, can't be done in isolation. You also have to adopt reforms that keep the system honest. This is an interactive system. When the law changes, the evidence changes. That's the nature of soft-tissue litigation. These cases are built on subjective complaints. The nature of the subjective complaints tends to change as the laws change. So there also have to be mechanisms to keep the system honest. The A-2554 has one such sensible mechanism, which is to empower the Department of Insurance, in consultation with the Department of Health and with relevant professional boards, to define the tests which would be usable in piercing the threshold. A second, far more comprehensive meaningful reform, of course, is the PRO to authorize doctors to oversee the treatment process according to accepted medical protocols and standards so that the system stays honest and the litigation tail does not wag the treatment dog.

Keep in mind that when we talk about keeping the system honest and we talk about PRO reform, we are almost always talking about treatment at the low end of the injury scale. We're talking about those treatments and those injuries in which abuse now in the form of overtreatment and overtesting most often occurs. You will see that this is not a problem in the serious claims. And I know that the PRO reform is plagued by the rhetorical question, well, should the insurance carriers choose the PRO organization? I'm confident that you can solve that problem and come up with an independently inspired PRO system. But I want to remind you that under the current system the status quo is not neutral in that regard. Under the current system in soft-tissue

litigation, it is frequently the practice that the lawyer effectively chooses the treater, the provider. So it is not enough to say that a PRO reform may be biased in favor of carriers, therefore, let's do nothing. I don't think you can afford to do nothing. The present system is not unbiased.

The price impacts of proposed threshold reforms probably range between 5 percent and 20 percent of overall compulsory premium depending on how hard you want to bite this bullet. As we've indicated, the Categories 8 and 9 represent about 40 percent of the dollars in the system. You're talking with a true elimination of those categories, all else being equal, you're eliminating 15 percent to 20 percent -- you're reducing overall compulsory premium costs 15 percent to 20 percent.

SENATOR ADLER: Walter, over this side.

MR. BLISS: Yes.

SENATOR ADLER: What measures do you need to do to get 5 percent?

MR. BLISS: Five percent is essentially the actuarial estimate on the Michigan threshold. Five percent is overall premium effect, as opposed to, I believe, greater than ten on the BI premium.

SENATOR ADLER: But go all the way till--

MR. BLISS: And that's on the untightened Michigan threshold. And, incidentally, the Michigan threshold -- I'd like to add a footnote-- Michigan has over time amended its threshold, too, in light of cases that came down in Michigan. Keep in mind that when you adopt language from other states, you also adopt case law that comes with it. When drafting legislation of a Michigan threshold type, make sure that the language you select is

relevant to the New Jersey case law at the very least. At the very least, threshold reform at the low end, at the modest end, has got to send a message to the Appellate Division that a claimant's complaint that he or she is not able to go dancing on weekends as frequently as before or not able to play golf as frequently as before -- keeping in mind that these are subjective protestations that are entirely unverifiable -- is not enough to defeat a verbal threshold motion. There's got to be tightening in response to the specific problems in New Jersey case law. But Michigan threshold represents a type of tightening. And that's at the -- and if it's tightened a little bit -- 10 percent to 12 percent of the BI premium, 5 percent of the overall premium.

SENATOR ADLER: Thank you.

MR. BLISS: And I want to stress, again, that all of this requires accompanying PRO reform or other reform that's designed to keep the system honest.

Let me, if I may, just respond quickly to some of the contentions of the trial bar witnesses who've testified before you. Essentially, if you'll permit me to characterize it, the trial bar proposal is, rather than to limit or restrict Categories 8 and 9, to enlarge Categories 8 and 9. And if somehow by enlarging Categories 8 and 9, which now represent 60 percent of the claims, 40 percent of the BI dollars -- by enlarging that category we can save money. Intuitively, basic common sense tells you that that just can't be done. Now, there is a catch, that the trial bar proposal would not just remove all restrictions on existing restrictions on litigations over minor injuries. It would also eliminate all but the first \$10,000 of PIP. And that means that not only would all restrictions be removed, but the moneys needed to build those small

cases into big cases would remain in the system. The proposal effectively suggests that we have the worst of both worlds in terms of costs and social benefits.

Now, the trial bar witnesses have argued that the elimination of the verbal threshold will eliminate the temptation of claimants to build up minor cases into major cases. But I would remind you, and I think common sense will support, that the elimination of verbal threshold will not eliminate the technology of building cases. The technology is with us. The cottage industry that has developed around building up small cases into big cases is here, and it will have every bit the value after the threshold goes, as with the threshold. Because in order to make more out of a minor case, you have to build it. And you build it with testing and you build it with overtreatment. Far better than that, you can go to the jury with a test that purports to show some objective sign of injury than if you go to a jury with nothing but your subject of complaints and protestations. And the system-- Not only does common sense indicate that, but the system that's proposed, that would preserve the first 10,000 of medical, guarantees that that building up process will be fully funded. It will be cost free to the litigant. Anything-- The overtreatment, the overtesting will continue to be paid for, and anything that comes out of the litigation process will be gravy. And the gravy will be greater because the cases are built up instead of simply made of the unadorned, subjective complaints of the plaintiff.

Gerry Baker, representative for the trial bar, implied in his testimony, and I'd -- to just clear this up, if I may-- He implied in his testimony that two-thirds -- maybe I misunderstood him -- of the verbal

threshold summary judgment motions made in the state are granted. That every other Friday, the illusion is-- Every other Friday the courthouses are crowded with moving parties who are seeking to dismiss verbal threshold cases. And in two out of every three cases, they come away happy with a victory. Not so. What Mr. Baker said was that of the appellate decisions that he's found, two-thirds of them upheld the dismissal of the case based on the verbal threshold, and one-third -- and wow, that's some one-third -- reversed the dismissal of the case based on the verbal threshold. When interpreting the claim that every other Friday two-thirds of the verbal threshold cases are thrown out in the state, keep in mind that first, only plaintiffs appeal the granting of a verbal threshold -- the result of a verbal threshold motion. Because if a verbal threshold motion is granted, the case is dismissed. It is then ready for appeal. And only at that point, plaintiffs can proceed.

If the defendant, however, loses a verbal threshold summary judgment motion, that's an interlocutory order, it's not yet ready for appeal, and it can't be appealed until the whole case is over. And if it's going to mean a jury trial, it means going through at post-jury verdict. Then, and only then, does the defendant have the right to appeal the denial of a verbal threshold motion. Add to this the reality of appellate case law in New Jersey, which permits so much in the way of subjective complaints to be involved in the interpretation of the seriousness of the injury, that summary judgements are extremely difficult to obtain. And you'll recognize why the defense bar is so cautious and so limited in the cases in which it will even bother to make the summary judgement motion on. And I think those of you who practice in this area or in the courthouse will confirm that summary judgement motions are

not the rule even in cases in which, obviously, if you look at the spirit of the law, the verbal threshold was intended to apply.

And finally, by way of responding to things that have already been said before the Committee, I would like to respond very briefly to illusions to a cat fund -- illusions to a catastrophic loss fund -- as somehow a way to have our cake and to eat it. That is, if we have a catastrophic loss fund, although no details have ever been proposed -- it's been alluded to -- we can reduce PIP from 250 to 10, and we can remove all restrictions on the litigation system and still come up with a cheaper system. And flirtation with a catastrophic loss fund should keep in mind a few basic facts.

One, this is a cost shift. It is not a cost reduction. If, for example, you were to cap all carrier liability for PIP losses at 10,000 and then shift everything else to the Unsatisfied Claims and Judgement Fund and then have the Unsatisfied Claims and Judgement Fund spread all their losses around the whole industry in proportion to the writings they have in the market, you would have the same moneys being shifted around. The only reason there is a temptation to look at lower assessments is because the Unsatisfied Claims and Judgment Fund, like our old JUA, is funded on a cash flow-only basis. So if you have a system that only pays bills as they come up and doesn't reserve for future liabilities, what you have, as with the JUA and with the Unsatisfied Claims and Judgement Fund-- What you have evolving is a very large unfunded liability.

Under the current law with a cap of individual carrier responsibility at 75,000 and the UCJF for coverage above that amount, you have an unfunded liability of \$2.5 billion that at some point, say, deflation or

something like that, is not only to provoke public outrage, but it's going to require major State intervention. I recall the way the JUA unfunded liability was bailed out from public bonds.

The third thing to keep in mind is that, also like the JUA, if a catastrophic loss fund proposal were to cap individual carrier responsibility at 10,000 and have a fund for the remainder, with assessments spread around the industry, you would effectively lose individual carrier loss control over amounts in excess of 10,000. And one thing, if anything, that brought the JUA down was the lack of individual carrier responsibilities for amounts paid over the retained amount.

Those three factors caused the very unhappy experience in Pennsylvania when it experimented with a catastrophic loss fund for that layer of PIP coverage between 100,000 and 1,000,000. And initially, they went in happily with a cat. fund to be funded by \$5 per car on vehicle registrations. Well, that quickly grew to \$8, and then it was rejected at \$40, and the public said, "Enough. Where are we going with this?" And the Pennsylvania cat. fund was repealed. I urge that experience upon you.

I'm happy to answer questions, and I appreciate the time you've given me.

ASSEMBLYMAN DiGAETANO: Senator Kyrillos.

SENATOR KYRILLOS: Thank you, Assemblyman.

Let me just say, I'm not sure I ought to appreciate the fact that you use my bills as a reference point to begin rebuilding this system, but I thank you anyway for that. And I think, you know, we both look at this in the same way. We realize that we have a very, very generous, very expensive

system, and what is it about it that makes it so expensive? We've got to look at those very costly components that serve to inflate the price tag. And I don't really know a lot about insurance, but it really isn't rocket science.

We look at the litigation, we look at the medical costs, we compare it to other localities, we compare it to other forms of insurance, we look at the unavailability of any options at all for consumers, and we realize those are the cost centers. Those are the high-cost centers. And if we're going to bring about any kind of reduction in auto insurance in New Jersey, we've got to look at those targets. We want a cheaper product, we have to produce a different kind of product. We can't offer the same auto insurance product that we always have offered at a lower cost it seems to me. So, I think, we need to do something on verbal, as you do. I would like you to amplify in a minute about whether it ought to be a Michigan-style threshold or a tightening of the current New Jersey threshold. I know you offered both possibilities, and maybe we can just talk a little bit about the pros and cons of each of those. Peer review-- Some kind of a fee schedule-- I'm not sure that we can address some of the inordinate and unnecessary testing without some kind of tightening of the PIP policy per se, which I don't think you've talked about and isn't part of your cost savings.

You talked about making uninsured motorists coverage optional. How would you characterize this 10 percent savings that you offered today? Let me make sure I understand where it comes from. A Michigan-style verbal and a peer review in tandem comes to 10 percent savings?

MR. MATTHEWS: Actually, what I was referring to was the Michigan threshold, which has become sort of a dancing spotlight in Michigan

again -- a Michigan verbal threshold that would be tightened to reflect some of the abuses that Walter indicated in his graphs here presented before you. That Michigan verbal with an effective PRO bill modeled on Pennsylvania -- I don't mean slavishly modeled. I mean a fair PRO bill that would be fair to both the insured and the company. We're interested in our insureds. We're not interested in getting a leg up, so we want a fair PRO bill and a fair fee schedule. We predict that to mean a minimum of 10 percent savings, if it's done right. Because if you just say, okay, this is the Michigan verbal tightened up and you use two washers and no nuts, you're not going to have a tightened Michigan verbal and that whole thing is going to collapse. Because all these things interrelates.

SENATOR KYRILLOS: I understand what you're saying. We can't be cosmetic, it has to be real. So those two components alone -- peer review, a tightening of the verbal threshold whether it be of the Michigan brand or something like it -- you're saying a minimum of 10 percent.

MR. MATTHEWS: I have also--

SENATOR KYRILLOS: Is that how you termed it, a minimum of 10 percent?

MR. MATTHEWS: But I also included in that a fee schedule. Now we do have--

SENATOR KYRILLOS: Right.

MR. MATTHEWS: You did pass legislation in June allowing the fee schedule to be revamped. We've got a fee schedule since 1991, and the current law requires the Department to review it every two years, but it still hasn't been reviewed. You gave them the power to go outside professionally

to create a fee schedule. And I understand it still hasn't gone out for bid, although the Department, obviously, has been pretty busy with some of the other tasks you gave them. I understand that's ready to go out for RFB, but that has to include some sort of--

SENATOR KYRILLOS: You're saying, Elmer, that this schedule component we've already dealt with in legislative way, yet to come about.

MR. MATTHEWS: Yes. But you got to watch it. You got to watch it. The devil-- I can't say it too many times, the devil is in the details.

SENATOR KYRILLOS: Right. All right. The schedule that we've already dealt with, the peer review, the tightening of the verbal, minimum 10 percent.

MR. MATTHEWS: I see it projecting 10 percent.

SENATOR KYRILLOS: Is that a conservative figure?

MR. MATTHEWS: You know, I've had an education in the last--

SENATOR KYRILLOS: This is a very conservative industry, is it not?

MR. MATTHEWS: Well, what I've tried to do, since I am a trade association and I don't want to deal with individual actuaries in my company because of antitrust considerations again-- We've retained an independent actuary, and you fight with that actuary. He says, "Look, this is where I'm coming from and don't try to push the envelope on me -- give me language and then I'll push the envelope."

SENATOR KYRILLOS: Let me ask you something. You both represent different associations, correct?

MR. MATTHEWS: Yes.

MR. BLISS: Yes.

SENATOR KYRILLOS: Different insurance associations?

MR. MATTHEWS: Well, they're different-- The more they're different, the more they are the same.

SENATOR KYRILLOS: But they're different memberships?

MR. MATTHEWS: Yes.

MR. BLISS: Yes.

SENATOR KYRILLOS: But different trade groups within the same industry, and you've got a lot of members in each one, I assume, right?

Do you know how many in yours, Elmer, offhand?

MR. MATTHEWS: Over 300.

SENATOR KYRILLOS: How many in Walter's group?

MR. BLISS: Two hundred fifty nationwide, about one out of every three cars in New Jersey.

SENATOR KYRILLOS: All right. So just as it's hard for those of us on this Committee to get a 120 members of the Legislature to at least admit that there is a problem -- forget about how to deal with that problem -- you've got a relatively complicated, certainly, a large constituency to manage. Is that correct?

MR. MATTHEWS: The interesting thing, though, Senator, I'm authorized by my trade association to say what I said this morning.

SENATOR KYRILLOS: Okay.

MR. MATTHEWS: And that--

SENATOR KYRILLOS: Very good.

MR. MATTHEWS: --represents not only a consensus, but a substantial consensus. It's too bad you couldn't be on one of those conference calls one day.

SENATOR KYRILLOS: You know, I'm glad I wasn't on it.

MR. MATTHEWS: Absolutely. (laughter)

SENATOR KYRILLOS: Well, that's an important point that you've made, that you can get to this consensus point in and of itself. And I guess the point I'm trying to get at -- and we won't resolve it, but something for the public and the membership to think about -- is that it must have been very difficult to get a large and potentially contentious constituency, with conflicting viewpoints and--

MR. MATTHEWS: I thought you were going to say unwieldy.

SENATOR KYRILLOS: --data, and unwieldy, whatever, to come to that conclusion. Now--

MR. MATTHEWS: No. The interesting thing, as I say, it represents a consensus, and there is a firm belief that within that Michigan tightening or tightening New Jersey -- whatever this Committee wants to do -- there is a lot more room. And I think Walter indicated that, and that's a sensitive sensibility among these people, that if we do it right, we can do it well.

SENATOR KYRILLOS: I guess what I'm trying to say, and I hear what you're saying, is that a very conservative industry, as yours is -- and I think we can say that, right? It's all relative, obviously.

MR. MATTHEWS: Well, when we get up in the morning, we do put on belts and suspenders.

SENATOR KYRILLOS: Conservative representatives, I jokingly said to the session or two ago, that whenever you guys talk about reduction and standing behind it, I'm sure some of your people break out in hives. It was not easy to come to this point, and would it be fair to say I certainly believe that this is the lowest common denominator that you could be authorized to bring to the table today. That there are probably some members of your industry that would have been comfortable with a higher reduction given real reform of these two components -- peer review with the schedule and the tightening of the verbal. And that's a hard thing to throw out to you to react to, but I think it's important for the members of this Committee to understand that when you say a minimum of 10 percent, that was some accomplishment--

MR. MATTHEWS: And that's not a number--

SENATOR KYRILLOS: --and they're probably individuals within your core group that could go beyond that.

MR. MATTHEWS: I said that was not a number idly arrived at. There are people who feel that it could go further. I'm one of them, but I don't have a tendency for self-emulation.

SENATOR KYRILLOS: So there are people who think that it could go beyond 10 percent?

MR. MATTHEWS: Yes. Yes.

SENATOR KYRILLOS: There are people that are going to have to write these policies and make the economics work and still make a profit that are major players within your organizations that believe that the 10 percent figure is too low?

MR. MATTHEWS: But remember--

SENATOR KYRILLOS: Yes or no?

MR. MATTHEWS: --the devil is in the detail.

SENATOR KYRILLOS: Assuming that these proponents are fixed in a thoughtful and meaningful way, is that correct?

MR. MATTHEWS: Yes. Oh, absolutely. Absolutely, Senator.

SENATOR KYRILLOS: You want to, care to offer a range of what people are thinking out there?

MR. MATTHEWS: We don't-- I said to you, I don't have the tendency for self-emulation. I find it very, very difficult to speak on behalf of 300 companies without authority. Okay. Personally, I feel we could push the envelope further, but it depends upon how efficiently you craft this, when you take that pencil from behind your ear and go to paper. So what you put on that paper--

SENATOR KYRILLOS: I just want to make it clear then that--

MR. MATTHEWS: --is arithmetically proportional.

SENATOR KYRILLOS: --doing it right, putting the pen to paper in the right way -- your kind of way -- on these two components, you can push the envelope beyond the figure that you threw out there.

Now, let me ask you this. That figure doesn't take into account some of the options of the uninsured motorists figure, is that correct?

MR. MATTHEWS: Precisely, yes. I've already indicated that in my remarks, yes.

SENATOR KYRILLOS: You did?

MR. MATTHEWS: Yes.

SENATOR KYRILLOS: What number can you attach to it?

MR. MATTHEWS: Well, I indicated to you in my remarks that by utilizing some of those, you could push the number to 15 and probably a little bit over, using UM, UIM. UM, UIM is pretty substantial.

SENATOR KYRILLOS: What is that? UM, what is that?

MR. MATTHEWS: Underinsured motorists and uninsured motorists.

SENATOR KYRILLOS: Okay.

MR. MATTHEWS: In making it nonmandatory or just making it noneconomic. In making it nonmandatory affects a greater reduction than just the noneconomic. But, in both instances, you're pushing it above the predicted number here.

SENATOR KYRILLOS: You haven't looked at PIP per se, not lowering the \$250,000 threshold, but looking at some of the frivolous medical costs that are, for example, not allowed through your health insurance policy that are allowed through, in essence, the health policy that we call personal injury protection in the auto insurance policy? Is that right?

MR. MATTHEWS: Well, actually, you know, PRO impacts on that quite strongly.

SENATOR KYRILLOS: It would. It would.

MR. MATTHEWS: And when you start to fool around with -- and I don't want to use the vernacular, but that what we're doing when we talk about reducing PIP-- We start to fool around with-- We're adjusting other items. We're adjusting other responsibilities. We're adjusting other costs. And I find it very, very difficult to sit here and predict. If this Committee said

we intend to do this with PIP, I would take that to my independent actuary, who drives me crazy, and tell him--

SENATOR KYRILLOS: I'm not asking you to put a number on it, but what I'm asking you, Elmer, is you haven't looked at it, right, in terms of the savings you've offered today?

MR. MATTHEWS: We haven't looked at it with firm numbers, okay. We have looked at--

SENATOR KYRILLOS: It's not part of your calculations in other words?

MR. MATTHEWS: Precisely. Precisely.

SENATOR KYRILLOS: I'm not asking you to calculate it.

MR. MATTHEWS: Yes.

SENATOR KYRILLOS: I'm asking you whether you'll--

MR. MATTHEWS: It would have an impact, though.

SENATOR KYRILLOS: It would have an impact?

MR. MATTHEWS: Yes.

SENATOR KYRILLOS: So--

MR. MATTHEWS: But it would have a secondary impact, too. You know, it has a backwash impact, too, that I don't want to get into this morning.

SENATOR KYRILLOS: So without looking at that and who knows what else, you're conservatively saying 10. You're saying that at this table maybe 15, and certainly there are members who aren't at the table, and not publicly, would say if you did all these things, you can get above 15?

MR. MATTHEWS: Uh-huh.

SENATOR KYRILLOS: Now, let me ask you about the minipolicy.

Is that all right, Mr. Chairman?

ASSEMBLYMAN DiGAETANO: Sure, Senator, just-- We have several other witnesses to get--

SENATOR KYRILLOS: Well, these are important.

ASSEMBLYMAN DiGAETANO: --but if you can, be as brief as possible.

SENATOR KYRILLOS: I will.

The kind of minipolicy that you're talking about would include what? Just so we can define it quickly, and ask if you could put a price tag on it.

MR. MATTHEWS: The minipolicy that is defined in your bill is the one that we priced. And we put a premium cost on that, and I don't have it right in front of me. I think it was \$315 for that coverage.

SENATOR KYRILLOS: And what would you get for that--

MR. MATTHEWS: Which is a substantial--

SENATOR KYRILLOS: --\$315 for the minipolicy that's in my bill, for example.

MR. MATTHEWS: You would get the PIP coverage and the PD coverage.

SENATOR KYRILLOS: PIP coverage -- the minimum PIP coverage?

MR. MATTHEWS: Yes.

SENATOR KYRILLOS: And PD?

MR. MATTHEWS: Yes.

SENATOR KYRILLOS: Which means?

MR. MATTHEWS: Property damage.

SENATOR KYRILLOS: Property damage. Bare bones.

MR. MATTHEWS: Bare bones. And that's the one in your legislation. They're all variations--

SENATOR KYRILLOS: A policy that--

MR. MATTHEWS: --of minipolicies which allows a lot of choice.

SENATOR KYRILLOS: And I'm not wedded to that particular policy, but the idea of a minipolicy for college kids and the poor and for people out of work is an option we ought to have out there for people, I think. So-- All right.

Thank you. I won't go any further.

MR. MATTHEWS: Thank you.

ASSEMBLYMAN DiGAETANO: Thank you, Senator. Just might I note that since Elmer is a very conservative individual from one fine institution of higher learning, take his number and double it -- whatever it is--

SENATOR KYRILLOS: I'll take that.

ASSEMBLYMAN DiGAETANO: Senator Cardinale.

SENATOR CARDINALE: Thank you.

I'd like to just follow up a little bit on one of the points that Senator Kyrillos made and then ask another question.

In this minipolicy, I think what I hear you saying is that there would be no liability coverage. Is that correct?

MR. MATTHEWS: Yes. That's the one we priced, yes.

SENATOR CARDINALE: Okay. If we were to maintain liability coverage, then that minipolicy would probably not be very far different from the cost of the policy today? So essentially, it achieves a reduction in premium by buying less insurance.

MR. MATTHEWS: Precisely, yes. Precisely. But I don't want to quibble with you on that, but the whole idea of insurance is to protect one's own assets. And if a person does not have assets to protect, what is the reason for mandating coverage to protect nonexistent assets. We seem to come into this sometimes -- I don't mean to overanswer your question -- from a sociological standpoint that a liability insurance policy is not to protect the buyer, but to protect whomever wants to take a run at it. And I don't think that's philosophically the case.

SENATOR CARDINALE: A suggestion was made to me the other day that another feature of the minipolicy -- and I know you haven't had an opportunity to price this out but somewhere along the line if you would be inclined to do so, I would at least be interested in pricing, and I know one or two Senators would-- And that is, if someone carries a minimum within that minipolicy, a minimum liability coverage, but it also carried a limitation on how much could be recovered against someone else's liability coverage in the same amount-- In other words, you've got \$10,000 worth of coverage and you've paid for that. You could only collect \$10,000 as a result of any kind of litigation for noneconomic loss. That might be a feature that some people would be interested in seeing -- some pricing on it.

MR. MATTHEWS: I would have no idea myself how to price it but very glad to provide you with that if you give it to us.

SENATOR CARDINALE: Now, my question is on PIP and a reform of PIP. And I understand all that you've said about peer review, and I kind of agree with most of what you've said. But is it possible through the use of policy forms to correct some of the more egregious abuses of PIP? And it is-- Well, let me ask that question first.

MR. MATTHEWS: The answer to that is yes, Senator. And I think if we were allowed to utilize policy forms that were perhaps more definitive -- we had the authority to do that -- that a lot of these problems also could be solved. Not a lot of them; I say some of these problems could be solved through the policy form language itself.

SENATOR CARDINALE: As we were going through last spring, some of the issues that led up to the bill which did pass, it was presented to me that you have currently in the law, and certainly if anything the last bill expanded that ability under the law, to use policy forms to do this very function. And it's a matter of curiosity why companies, and I think should also be a matter of policy for us -- why companies have not exercised what I'm told you have the ability to do when you rail so heavily against these abuses. Do you feel that you don't have the ability within the policy forms--

MR. MATTHEWS: We feel that there is language in the present law that would encourage us to do that, but if you take one of those cases to the Appellate Division, you run square into that brick wall of the purpose no-fault. And they quote that no-fault study of 1962, and they said it is to protect and ba-ba ba-ba, get these benefits to people, and we're out of the box. If we had the ability to write these in, to define certain things in our policy specifically authorized by the Legislature, we could do it. But I don't think

doing it now would be effective given the predilection of our Appellate Division -- I don't mind if I'm quoted on that -- to expand the theories of liability.

SENATOR CARDINALE: Is it your opinion, because you have studied those cases and I certainly have not, that were we to give you more specific legislative authority to use policy forms and perhaps to have those policy forms differ from company to company so that you could have some competition getting back into the system if you would offer a wider variety of products that that would stand muster before the Appellate Division? Or would they say, well, no-fault is a trade-off, and you're not allowed to do that?

MR. MATTHEWS: I think you can use the old biblical adage, "The Lord giveth, the Lord taketh away, blessed be the name of the Lord." The Legislature has the right to give, and to gave, in no-fault. It has the right to take away. So any question about the fact that the Appellate Division would have to abide by that scripture if that was the intent of the Legislature-- I have a list here of those Appellate Division opinions. I'll give to you and I'll give your staff. I didn't do it myself. New Jersey Manufacturers did it about a year ago. And it's a collection of those Appellate Division opinions that, if this wasn't so serious, it would be a little bit humorous.

SENATOR CARDINALE: Thank you very much.

MR. MATTHEWS: Thank you, Senator.

ASSEMBLYMAN DiGAETANO: Clare. Assemblywoman Farragher.

ASSEMBLYWOMAN FARRAGHER: Yes, thank you.

Just to go back to that minipolicy with the PIP and the property damage with no liability. What-- Did you price out what that would do to the underinsured motorists' premium for the rest of us?

MR. MATTHEWS: No, I didn't, Assemblywoman. I just priced it--

ASSEMBLYWOMAN FARRAGHER: Okay. Thank you.

ASSEMBLYMAN DiGAETANO: Any other member of the Committee have questions for these witnesses?

Assemblyman Charles.

ASSEMBLYMAN CHARLES: Just one question. Either one -- I'm just interested in understanding how confident the industry is about its predictions that the various changes, which have been discussed, would improve the situation by lowering premiums. You know, we've heard testimony about, if you tighten the threshold, if you peer review, and things like that -- that that would lower the premium. Would the companies be agreed and endorse a provision in any reform bill that says that in exchange for these changes, the companies would agree to a rollback in premiums of 5 percent, 10 percent, whatever the number is that you represent would be the result of these changes? Make that a mandatory rate reduction a part of any reform bill. Would the companies do that? It seems to me that if there is this confidence in these proposed changes, then there should be a willingness to incorporate that outlook in the terms of mandatory premium rollback.

MR. MATTHEWS: Can I answer it this way and we're sort of-- I think we're both ready to jump on this raw piece of meat. Rollbacks are legislative rate making, okay. Legislative rate making is usually a political rate

making. Having said that, I want you to know that what I said today I stand behind and my Association stand behind, that we think it will result in this reduction in premium. But given the present dysfunctional market in New Jersey, it would be very different where you have a span of companies in every territory in this state that have high premiums and low premiums, some losing money in those districts, to just rollback automatically across the board.

I think the implementation of that would rather be, I think -- and I think the Department would probably agree with this, too -- would be to say that within X number of months after the passage of this legislation that people must refile their rates. And the Department must take into account in their refiling the impact of these changes on the rate structure of the company. You have to realize that, in your infinite wisdom last June, you authorized the Department to put into effect a tier rating system. Even now as we speak, the regulations are out for consideration, and they're looking for implementation of that in the spring of this year. To put a rollback on tier rating just like that is an incredible way to approach sanity in a dysfunctional market.

So having said that, I want to repeat that we believe that these restrictions -- these cost savers -- will predict the kind of numbers that I said. And I think that you will see that in a reduction in premium. But a rate rollback is a political move. It is legislative rate making, and it's repugnant to me as a lawyer.

MR. BLISS: If I may just jump in. Yes, legislative rate making is very disruptive at the market, and whatever short-term gains you may get politically will not pay off in the long run if the market does not digest these reforms. Keep in mind that the numbers we're giving you this morning are

good numbers, but they're based on a snapshot of the present system. The system is interactive, has many components. As I indicated, for example, in soft-tissue litigation, as the rules of the game change, the testimony and the proofs change. And it's an iterative back and forth process. You have to-- If you're going to look for rate reductions, I counsel that at the very least you have to look to the long term, look to phasing in changes, look to holding the Department of Insurance accountable for making sure that savings promised in legislation actually come to pass or you know the reason why. And keep in mind that under the statute of limitations in this state -- take all else aside-- Under the statute of limitations it takes two years to phase in a change in the threshold. It takes two years effectively to phase in fully PIP changes. Because of the two-year statute of limitations, those claims under the existing law will continue to be around for a two-year period. So factor that into your estimates on the overall savings promised by reform.

ASSEMBLYMAN CHARLES: Just a comment, Mr. Chairman.

The various answers that were given are troubling. We're here as a panel to consider reforms -- changes that will produce lower premiums to the driving public of the State of New Jersey. We're supposed to come out of here with something that promises, and promises fairly, to the driving public that they're going to see reductions. There's been a lot of talk about it. I think the public wants us as a panel, to the extent that it's possible, to guarantee that what it is that we're doing will lower those rates -- not might lower them, might not five years from now lower them, but will, in fact, lower them to the extent that no one is willing to put some guarantees to the cost reduction that would come from the proposed changes.

Now, that should be disturbing to this panel. It should suggest that it's found that we may then be coming out of here with some change which may not ultimately lead to lower premiums. So, I mean, until we can really talk about some, not a guarantee -- some real good assurance to the public that they're going to experience some premium reduction, we have to be, I think, as a panel weary of these changes--

MR. MATTHEWS: Assemblyman--

ASSEMBLYMAN CHARLES: --so that we aren't engaged in just some hearings and a high-paneled production of legislation that's going to lead to a continuation of high premiums or just minimal reductions of premiums. We should be able to say, listen, you're getting-- When we finish our work, we guarantee you 5 percent, 10 percent, or whatever, that's what this legislation means. And if it doesn't mean it today, it means it within two years, maybe with the statute of limitations, three years, or whatever. It means that reduction -- it means that. And we ought to be pointing in that direction.

MR. MATTHEWS: Assemblyman, we want to get out of this dysfunctional market as much as you do, hopefully. If this Committee gets together, okay, and produces a document that will give us significant reforms, we would be in a position to say, yes, we will guarantee. That's how much we want this market to change. We don't enjoy operating in a dysfunctional area.

All over the country in other states-- And most of our companies operates -- sell auto insurance in the 50 states and the territories. We don't have this problem anywhere. We want to get out of it as much as you. We stand behind the figures we gave you this morning.

ASSEMBLYMAN CHARLES: Just one final question-- A general question, Mr. Chairman.

Would the companies-- If the companies who write in New Jersey, they write more than automobile insurance, they write other kinds of insurance also, would they be able to and would they continue in New Jersey if they were just completely out of the automobile insurance business?

MR. MATTHEWS: That was the purpose of the lock-in law, which is in fieri, to prohibit people from leaving the auto insurance market without surrendering all their other avenues of doing business. And a company that writes on a national scene -- they can't write a policy in New Jersey for a client, because the client has a plant there -- is not able to service his customers correctly. So that is a disincentive.

ASSEMBLYMAN CHARLES: What is?

MR. MATTHEWS: Okay.

ASSEMBLYMAN CHARLES: What is?

MR. MATTHEWS: The lock-in laws are a real disincentive.

ASSEMBLYMAN CHARLES: That's my question. My question is suppose you didn't have the lock-in laws. Suppose we just said-- Suppose the companies that operate now who write policies in areas other than automobile insurance -- suppose they no longer were in the automobile insurance writing business, they just did other kinds of insurance writing, would they still be in New Jersey?

MR. MATTHEWS: Absolutely.

ASSEMBLYMAN CHARLES: Okay. That was my question.

SPEAKER COLLINS: If I may, we have two other questioners, so don't go quite yet. But I couldn't help but think, and granted the word is guarantee, but as Assemblyman Charles was mentioning a guarantee and guarantee-- It's just part of the system, I'm sure, that when anyone is speaking about what the negative will be if the other plan goes in or whatever, we're pretty assured it will be \$150 increase, or this or that. But when we're asking for the other side of it, it's very tough to get a guarantee.

But I heard what you said, Elmer, and we'll look forward to -- once a document is put together -- to hear from all sides what the actual impact they think that legislation will cause with regard to cost.

If I may, before I call on Assemblywoman Farragher and then Assemblyman Garrett, we have a number of other testifiers that we will be dealing with. Some have flown a great distance, and we surely want to make sure that we get them on. So just keep that in mind with the answers and the questions.

Assemblywoman Farragher.

ASSEMBLYWOMAN FARRAGHER: Thank you.

With regard to the questions of Assemblyman Charles, speaking as a person who has gone head to head, literally, with the National Association of Insurance Commissioners on staking out legislative territory versus regulatory territory, I believe legislative rate making encroaches into the fiduciary responsibility of the Insurance Commissioners to review individual companies positions and set rates. And that is not something that I would favor. But I believe, with response to the answer about the Fair Act and the

lock-in law, if we do some of the things that have been talked about here and repeal the lock-in law, they will come.

We will see GEICO nationwide, perhaps taking another look at New Jersey. I mentioned to a few people that I had a meeting with GEICO a year ago last November, had a meeting with a vice-president of the company who had a meeting scheduled with the Department of Insurance. And she said to me, "Well, tell me why I want to do business in New Jersey?" And I said, "Well, first let me tell you why you don't want to do business in New Jersey." And I recited -- I said we were going to tell you how much money you can make, how much you're going to charge, who your customers are going to be, and by the way, if you come in, you can't get out. She said, "Why am I going to this meeting?" I said, "Because I want you to tell the Department of Insurance representatives what changes it will take in New Jersey for you to come here." And probably because of their very, very aggressive advertising on television, that is the most asked question in my legislative district: Why can't I get GEICO?

Well, last Wednesday I tried to explain it, but I don't know how big it went over, but--

SPEAKER COLLINS: If you'll remember, Assemblywoman, I asked you why I can't get GEICO.

ASSEMBLYWOMAN FARRAGHER: Yes. And even you, Mr. Speaker.

ASSEMBLYMAN DORIA: Being in New Jersey Manufacturers--

ASSEMBLYWOMAN FARRAGHER: Yes.

ASSEMBLYMAN DORIA: --that's probably even better than GEICO.

ASSEMBLYWOMAN FARRAGHER: Yes. Speaking as a recent claimant at NJM, all I can say is I'm dealing with two companies. And it's a pleasure to deal with two companies -- State Farm and NJM -- that really know what they're doing.

SPEAKER COLLINS: Assemblyman Garrett.

ASSEMBLYMAN GARRETT: Just a very quick comment to follow up the Speaker's and Assemblyman Charles' comment with regard to the guarantee. I can't think of any other legislation that we deal with outside of the area of insurance regulation where, before we pass that legislation, we demand from the proponents of that legislation that they give us a guarantee that our legislation will result in the results that they're suggesting. Whether it's health care, crime, penalties, education, we don't demand a written guarantee that this is going to end with the result that they suggest. I appreciate Mr. Matthews comment that you believe you can come with a guarantee, but I believe quite frankly the guarantee rests with this panel. We're not afraid to come every three months and change the rules with regard to the industry of automobile insurance in the State of New Jersey.

So, Assemblyman Charles, if three months or three years down the road we do not get the results that we achieve, there's nothing that stops this panel from, once again as we've done -- maybe it's even every other month, I guess, in New Jersey -- actually change the rules of the road for automobile insurance to once again revisit the issue and change the rules again.

ASSEMBLYMAN CHARLES: Just personally I'd rather not be coming here every week for the rest of our-- (laughter)

MR. MATTHEWS: I'm with you.

SPEAKER COLLINS: Are you sure about that, Assemblyman? (laughter)

Gentlemen, thank you very much for your ongoing participation in this process. I mean that sincerely. Thank you.

MR. MATTHEWS: Thank you.

MR. BLISS: Thank you very much.

SPEAKER COLLINS: Next we have Michael Berger, President-elect, Association of Trial Lawyers of America, and Richard Wildstein, Chair, Automobile Reparations Committee, Association of Trial Lawyers of America.

Gentlemen, get talking.

MICHAEL S. BERGER, ESQ.: Thank you for the opportunity again, Mr. Speaker.

We're going to talk about the cost of the verbal threshold we've talked about before. How the verbal threshold is unfair.

SPEAKER COLLINS: Michael, if you would hit your mike.

MR. BERGER: Yes. Is that better, Mr. Speaker?

SPEAKER COLLINS: Just move a little closer.

MR. BERGER: We have talked in the past on the other opportunities about how the verbal threshold is unfair today. We would like to talk about the cost of the verbal threshold with permission of the Committee.

New Jersey's no-fault insurance auto system is both expensive and unfair, and the attempt to control the cost of insurance by limiting the claims of injured people has failed to date. The innocent victims of negligent drivers in this state are stuck with a lose-lose proposition that I'd like to talk about. They now pay more and receive less than drivers in any other state in the country. And the verbal threshold in New Jersey costs more and unfairly limits the rights of those injured in automobile accidents.

You've heard the insurance industry. They argue that if you limit the right to make claims, costs and premiums will decrease. And that has always been the argument of the insurance industry advocates of no-fault. We now know that the opposite is true. We know that thresholds, particularly verbal thresholds, increase the costs and increase premiums. Thresholds cost more in human suffering and dollars for several reasons we'd like to bring to this Committee's attention.

First, thresholds eliminate an early and less expensive claim resolution, thereby increase the cost of claims and administrative costs -- cost issue. Secondly, thresholds require lengthy and costly, and I emphasize costly, litigation. Third, with thresholds, the value of the cases remaining in the system substantially increase and more than offset any savings by the arbitrary elimination of so-called minor claims. Finally, fewer people are fairly compensated in New Jersey for their injuries.

The verbal threshold costs are in addition to the auto health insurance costs that have been referred to in the New Jersey system. That is PIP. When the verbal threshold was adopted in 1988, the average automobile insurance premium, minus the special JUA assessment, was \$756. Now, as of

1995, the average premium has risen by \$257 to \$1013. All of the no-fault states, as we've told you before, rank high in insurance premiums and New Jersey leads them all.

When the verbal threshold was adopted, the bodily injury payments per car amounted to \$123. Verbal thresholds are expensive. Today they are \$170 and rank fourth in the nation. Now, during the past five years, that component of the policy has risen by 44 percent. The bodily injury payment per claim, before the adoption of the verbal threshold, was \$14,033. In 1997, that figure has increased by 27 percent to \$18,214. The same--

SPEAKER COLLINS: Michael.

MR. BERGER: Yes, Mr. Speaker.

SPEAKER COLLINS: Question from Senator Cardinale.

SENATOR CARDINALE: Right on this point rather than wait until you're all finished. I think we've heard this before. I mean, most of your testimony is repetitive, and what I believe has been elicited in our records is that there is a reason why in no-fault states, where one has the limitation on the right to sue, that there is a very logical reason why each claim that is adjudicated costs more. It is because the small ones are eliminated to some degree even with an imperfect verbal threshold. And so to make a comparison as you do between the cost of each claim in a no-fault state as opposed to a traditional tort-system state one would always find that the no-fault state is going to be dealing with a higher dollar figure because you're dealing with more serious injuries in terms of those who actually end up in court.

Now, another point I would like to make, and I would like you to address it because I don't think you ever have and you make the same point

again. We can compare New Jersey to New Jersey. New Jersey has both forms. For you to say that if we took-- Let me just set the stage in case there's anybody who doesn't know it. We have a zero threshold in New Jersey. That zero threshold costs substantially more than the verbal threshold, but everyone has an option to purchase either one. Now, your suggestion is that if everyone purchased a zero threshold, which is what happens when you eliminate the verbal, that somehow that's less expensive. But that is not born out by the record in New Jersey. How can you continue to repeat that same, what seems to me to be almost illogical, statement and expect this Committee to take you seriously?

RICHARD H. WILDSTEIN, ESQ.: Senator, can I answer that--

ASSEMBLYMAN DORIA: Can I just say something before--

SPEAKER COLLINS: Assemblyman Doria.

ASSEMBLYMAN DORIA: You know, we asked the insurance companies the same question, and it doesn't seem like anybody has the answers. Senator Adler asked that question at the last meeting, and he asked the insurance companies what is the difference in cost for you between a zero threshold -- those who select a zero threshold, and those who don't select a zero threshold? And the problem is -- and I don't know--

MR. WILDSTEIN: I can answer the question.

ASSEMBLYMAN DORIA: --if these people can answer the question.

MR. WILDSTEIN: I can answer the question.

ASSEMBLYMAN DORIA: But they didn't answer the question. The insurance companies couldn't tell us what the difference was -- how much money we saved and didn't save.

SENATOR CARDINALE: I think you need to talk to the rate-setting department of our Insurance Department to get that answer. Because those rates are not composed out of thin air. Those rates are composed as a result of filings--

ASSEMBLYMAN DORIA: But how come the insurance companies can't answer--

SENATOR CARDINALE: --that are based on actuarial studies.

SPEAKER COLLINS: Senator and Mr. Leader, let me just say -- relax. (laughter)

MR. WILDSTEIN: I'm biting at the bit.

SPEAKER COLLINS: The man is going to answer, so-- He's been wanting to answer for 30 seconds.

Let us hear your answer.

MR. WILDSTEIN: Yes, Senator, the claims severity would slightly go up, because you're dealing with about a 0.3 or 0.4 difference between the tort and the no-fault. But the cost is more than 100 percent more on a claims severity. That cost is enormous and it does not measure up with any statistical analysis of the amount of claims to cause 100 percent increase. In some areas of New Jersey, it's more, because we have over 100 percent higher than the tort states for the bodily injury. So that--

SENATOR CARDINALE: On what do you base that statement? You see, you're making a statement, but I don't see any support. You're saying it's enormously more--

MR. WILDSTEIN: New Jersey is--

SENATOR CARDINALE: --and it shouldn't be.

MR. WILDSTEIN: New Jersey is--

SENATOR CARDINALE: Have you gone to the Department of Insurance with that?

MR. WILDSTEIN: Yes.

SENATOR CARDINALE: And what did they say?

MR. WILDSTEIN: I'll tell you the answer to the Department of Insurance, but you have 200 pages of data that is for the ISO fast track from the National Association of Insurance Commissioners. That shows you that New Jersey is paying on the bodily injury \$18,200 and the average in the tort states is \$9000 less per claim. And that's not a frequency problem, that is the threshold problem.

Now let me answer the question as to the zero and the verbal in New Jersey. We asked the Department to give us an answer to that. They only gave us a rate filing, and we looked into it. In the rate filing, the first and year one, without any data whatever, they allowed a 46 percent differential between the zero and the verbal. That factor has been a number used to get further increases. In the last 10 years, the increases for the zero threshold have been doubled what they have for the verbal threshold, and there is no data to support that. That is strictly a policy decision that is made within the State and the Department. I would suggest to this Committee--

SENATOR CARDINALE: It's my understanding that the Department keeps a separate rating pool for the zero threshold. They're required by law to have such a separate rating pool. And that when a company comes in for a rate increase on a zero threshold policy, they need to justify that rate increase on the basis of data which is isolated to that particular rating pool. That's how our insurance law is. If what you're saying to us is that our Insurance Department is not following the law, then I think you ought to document that, and we can take it back to the Department and say, "Why aren't you following the law?"

MR. WILDSTEIN: I would think that this Committee should ask for that data, because we have asked for that data and we cannot get the data. There is no data in New Jersey keeping track of the zero to lawsuit threshold claims. If you look at the national data, the national data tells you the answer. It costs twice as much in the lawsuit threshold, verbal threshold.

SENATOR CARDINALE: No. You'll never sell that because it is easy to understand that if you eliminate the cat-and-dog cases, the cases that remain are going to cost more. There is an absolute, you know-- Intuition can be valuable at times and common sense certainly--

MR. WILDSTEIN: Experience is the science that judges actuarial data, not intuition. Intuition is merely-- You know, you speculate that that might be so, but why has the payments for bodily injury risen 44 percent in New Jersey over the last five years, and in the tort states, it has gone down 13 percent? Gone down.

SENATOR CARDINALE: I would answer that by saying you guys have gotten better and better at your job.

MR. BERGER: If you give me the opportunity--

SPEAKER COLLINS: Assemblyman Doria.

ASSEMBLYMAN DORIA: I'd say let's end this argument. Let's call the Department in and ask them for a fact.

SENATOR CARDINALE: Yes, absolutely.

ASSEMBLYMAN DORIA: That's the easiest way to solve this problem.

SPEAKER COLLINS: Please continue on, Mr. Berger.

MR. BERGER: Thank you.

This issue of what happens in other states is important because we have learned valuable information from other states. Because when you compare New Jersey's experience with the rest of the nation, as Richard alluded to, our bodily payments per car have increased by 44 percent and tort states bodily injury payments have decreased by 13 percent. New Jersey bodily injury payments per car are 68 percent higher than in states where people retain full access to the rights to sue. And then we further compare the bodily injury payments in New Jersey. They are \$5000 higher than any non-no-fault state and \$9000 higher than the average non-no-fault state. These are the costs. The verbal threshold states of New York and Michigan, for example, have even higher payments per claim than we do. When you examine payments in some of these prominent, non-no-fault states, Illinois, for example, has payments of \$8600, Ohio \$8900, and California \$7600.

Now, if we look at the threshold history very briefly, if I may, it's instructive because in 1972, New Jersey adopted a monetary threshold for nonpermanent injuries. Fault, of course, was still required to be proved in

court, but medical bills were paid for everyone or supposed to be, regardless of who was at fault for causing the accident. The immediate result was that the early and often pre-attorney settlement programs of the insurance industry were abolished. Prior to the threshold, as many of you know, the carriers resolved many claims soon after the accident. However, when you compare that with the adoption of the verbal threshold, that's no longer been the case. Since all thresholds, both monetary and verbal, require physician participation and act of involvement, the system created a delayed, complex inquiry into every case. This has resulted in increased payments and, the reason why we're here, increased costs. During the first 12 years of New Jersey no-fault, the premiums increased to \$180 above the national average.

Now if we look by the mid-'80s, the monetary threshold in New Jersey was \$1900. New York had had a similar experience and, at the urging of the insurance industry, decided to substitute the monetary threshold for the verbal threshold. Their legislation in New York created nine categories of allowable injury, instead of a monetary threshold, with most of the allowable injuries being defined as either fracture injuries or nonfracture injuries. The nonfracture injuries now required objective medical proof showing some impairment or interference with bodily function. And since that new standard in New York required most of the cases to go into litigation as compared to the prelawsuit resolution from before, monetary savings did not materialize.

Then in New Jersey in 1988, as we all know, New Jersey adopted this New York threshold using their exact language. Since no one knew how the standard would be interpreted by our courts, insurance adjustors were instructed not to resolve any verbal case prior to the judicial review, and

litigation ensued. We all awaited the Supreme Court to see how they would interpret the verbal threshold in New Jersey. Finally in 1992, the State added to the nine categories in New Jersey the new additional requirement -- the stringent requirement -- that nonfracture injuries have long determined consequences resulting in, quote from the Supreme Court, "serious impact upon the life of the claimant." This was not in the language of the New York law, it was not in the language of the New Jersey statute, which this Legislature passed, but a heightened requirement was imposed on each injured victim by our New Jersey Supreme Court in interpreting the verbal threshold.

This standard is so subjective that it is virtually eliminated pre-suit settlements requiring all cases to be litigated in the Superior Court. This is a system where results are inconsistent from courtroom to courtroom. All of this takes place in a system where we pay higher premiums than other states, yet we compensate a smaller percentage of our citizens.

Since the verbal threshold requires years of litigation, repeated presentation of medical proofs, and documented long-term suffering, the value of the claims remaining in the system are substantially increased. That claim severity offsets any reasonable attempt to limit claim frequency through legislative enactment.

I would like you to remember that New Jersey drivers do not choose the verbal threshold unless they take action to reject the limitation and pay hundreds of extra dollars. Their rights to file a lawsuit against a person who has caused the injury is severely restricted. You have heard testimony and some have proposed that 85 percent of the persons now covered by the verbal threshold be given the Michigan verbal as a means of cost control. In the

Michigan verbal there is no "fracture verses nonfracture dichotomy in Michigan." Almost all the claims, therefore, must display a serious impact of bodily function, serious impairment. Initially, those words were narrowly construed by the Michigan Supreme Court and many, if not the majority, of the claims were eliminated.

However, four years after its initial ruling the Michigan Supreme Court reversed itself, specifically indicating that it never intended to eliminate a valid injury in an arbitrary and unjust manner as was occurring with the interpretation of the Michigan verbal. It ruled, basically, that if the injury was disclosed by objective criteria and had an impact on the claimant, the threshold issues were to be decided by a jury and not by a judge.

In 1996 the Michigan Legislature amended the threshold to allow a summary judgement, a standard equivalent to the one now existing now in New Jersey. They also define "serious impairment of a bodily function" to be consistent with the case law, that an injury must "affect a person's general ability to lead his or her normal life." That is a quote. Certainly the clear meaning of the words can be interpreted as equivalent to what our Supreme Court has said as a requirement, that "serious impact on the life of the claimant," which is the standard in New Jersey.

We would urge you that adopting the Michigan verbal threshold will not save money and actually will, as other thresholds, increase the cost of premiums. Resolutioned cases will again come to a halt awaiting the exact New Jersey court interpretation of the new standard. Unlike the current New Jersey threshold, all cases involving fractures would, in the future under Michigan, require extensive litigation.

We already know that the threshold issues create higher premiums and not lower premiums. Michigan has always had a lower claim frequency rate than in New Jersey, regardless of no-fault, because of the demographics of New Jersey. In so far as the threshold comparisons are concerned, we would like you to note that Michigan's bodily injury per claim payments are \$21,000, which is about \$3000 higher than New Jersey. That claim severity rate has consistently risen over the past 10 years. When you combine the very high PIP loss payments in Michigan, Michigan now pays out over \$30,000 per claim, which is one of the highest in the nation.

Therefore, we conclude and would advise this Committee that the Michigan threshold is not an answer to New Jersey's problems. When you look at the combined PIP payments and threshold bodily payments, one sees that the no-fault must be repealed, as we have advocated before. Those payments in all of the no-fault states are 96.7 percent higher than in the tort states. The combined payments in New Jersey are 172 percent higher than in the tort states.

Many factors in New Jersey will always cause our insurance premiums to be ranked high, and this has been repeated throughout these Committee hearings. When you look at the report from AIS Risk Consultants, they have certified that if we remove the no-fault element from those factors, premiums can be reduced between 10 percent and 20 percent, which constitutes an average savings per car of \$150. Those savings exist after factoring in the elimination of the high cost of no threshold or 10 percent of New Jersey drivers.

You've heard before and we repeat that 38 states have rejected the no-fault system and rewarded their citizens with lower automobile insurance premiums and full access to the courts for injured drivers and passengers. The no-fault system in our state is the most expensive in the country. It requires the purchase of duplicative health benefits and limits the rights of innocent victims at the same time. Good drivers are made to pay for the negligence of bad drivers with their pocketbooks, as well as their health.

We have urged this Committee that we can achieve the stated goals of the Committee to lower the rates of good drivers by an average of \$150, to minimize the cost of health insurance, and reduce the number of lawsuits filed, bearing in mind that a claim is not a lawsuit if we eliminate the verbal threshold, create a \$10,000 medical payment provision covered by the auto insurance policy.

As shown in all the states across the country that we have cited, if you repeal no-fault you will reduce rates and at the same time restore rights. That's why we have urged repealing no-fault and eliminating the verbal threshold if cost is the issue. That's the only way that we can achieve the stated objectives of this Committee without destroying the rights of their citizens and their expectation to receive reasonable benefits for their insurance premiums.

I would like to represent to the Committee that two meetings ago we had about a dozen lawyers from across the state come to this Committee hearing, and along with them they brought clients who had been grieved by their insurance companies standing available for members of this Committee to discuss these difficult issues. Today we have about 25 lawyers from across

the state, and they include members of our New Jersey Ethics Committees from county to county. They are members of our group who are certified by our Supreme Court as trial lawyers, who donate much of their time to Supreme Court committees and other committees, who are here and available to legislators and their district really to answer the questions that this Committee has posed.

If and with permission of the court, Mr. Wildstein has about a three-minute statement that he would like to make.

SPEAKER COLLINS: You don't have to get permission of the court. (laughter) The court is getting entirely too many permissions lately, but we'll surely hear from Wildstein.

MR. BERGER: Thank you, Mr. Speaker.

MR. WILDSTEIN: My name is Richard Wildstein, and I am Chairman of ATLA's Auto Reparations Committee. I am a certified trial attorney and have been practicing since 1966, seven years before no-fault was adopted. On behalf of ATLA-New Jersey, I appreciate this opportunity to briefly respond to positions taken before you in prior hearings, as well as clarify the cost savings that will be experienced by New Jersey consumers if no-fault insurance is repealed.

The insurance industry's opposition to the repeal of no-fault can be explained by examining the difference in profits between the no-fault states and non-no-fault states. Carriers earn approximately a 2 percent higher percentage of premiums in no-fault states than non-no-fault states. Since premiums are higher in no-fault states, the profit differential is approximately

in excess of 3 percent. Since no-fault produces higher profits, the carriers resist any attempt to repeal that system of insurance.

Actuarial studies are scientific in nature and are prepared in accordance with standards for practice for actuaries. The only actuarial study submitted to this Committee to date has been the one by AIS Risk Consultants so that you may judge whether conclusions asserted by the industry comply with acceptable standards.

The following is taken from the actuarial standards of practice. An actuarial report is customarily considered to be fairly presented if it describes the data, material assumptions, methods and material changes with sufficient clarity that another actuarial practicing in the same field could make an appraisal of the reasonableness and the validity of the report. If you get a one-page letter with a conclusion and it doesn't have 100 pages of data, it is not an actuarial report.

To further understand the significance of the data submitted to you and to include recent 1997 fast-track data, AIS has prepared a supplemental information sheet in outline form. The summary compares important cost differentials between no-fault and non-no-fault states, reviews recent New Jersey experience, supplies statistics regarding cost savings in Connecticut and Georgia, and comments on the conclusion submitted by the insurance industry that rates would increase if no-fault insurance was repealed in our state. A copy of this summary is submitted with this statement. That summary is written by the Assistant Insurance Commissioner of New Jersey when the verbal was adopted and the person who set all of the rates, the chief rating analyst, during the entire 1980s.

It has been asserted by industry representatives that there would be a savings of 7 percent or 4 percent of premiums if the Michigan verbal threshold was adopted. There is absolutely no data to support that conclusion. For the reason set forth by Mike Berger the opposite result would occur. Cost for bodily injury claims would increase and premiums would have to increase. In order for the 7 percent assertion to have any validity, 40 percent of the current claims that qualify under the verbal threshold would have to be eliminated. Not only would that result be grossly unfair to our citizens, it would be unattainable applying the Michigan verbal.

There has been an assertion that the present cost of the zero threshold in New Jersey discloses actual experience concerning the expenses of no-fault and non-no-fault systems. The current average cost of the zero threshold exceeds the lawsuit threshold by \$335 per car. The additional cost does not mean that the zero threshold claims together are more expensive than the verbal threshold claims. The cost differential was a matter of policy established by the Department of Insurance during the year subsequent to the adoption of the verbal threshold. Rate increases were granted as to zero threshold policyholders and denied as to lawsuit policies. No attempt was made to justify the increases based on actual experience.

Since almost 10 percent of the automobile owners in our state have the zero threshold and pay more for their insurance, those numbers must be calculated into the savings that would be available if the threshold is repealed. The AIS actuarial studies do that. The average cost savings would be \$150 per car. When the 10 percent who have the zero threshold are factored into the savings, persons currently having the verbal threshold will

save \$100 if persons currently having the zero threshold will save \$445. After the first year, premiums will be equalized.

SPEAKER COLLINS: Mr. Wildstein.

MR. WILDSTEIN: I'm finished.

SPEAKER COLLINS: Oh no, I wanted to hear you again. Just back up a little bit there with that \$100 and \$445 savings. Say that again.

MR. WILDSTEIN: They are paying approximately three times as much, or double to three times as much, as the lawsuit threshold. So that 10 percent are paying a lot more percentage of the claims lost. So you have to factor them into the entire 100 percent. What the actuarial did was exactly do that, so that if you already have the threshold, which means that you are paying one-third as to the zero, your savings would -- under this plan of repeal no-fault -- be \$100. If you have the zero, your savings would be probably about \$445 -- between \$435 and \$445. After the first year, the premiums would all be equalized. It would be one premium to bodily injury and it would be lower -- we assure you lower.

SPEAKER COLLINS: Any questions of Mr. Berger or Mr. Wildstein?

Assemblyman Garrett.

ASSEMBLYMAN GARRETT: Just a quick question or two. The actuarial study that you refer to, the AIS actuarial study-- I know that you said this-- They were making comparisons of what other states?

MR. WILDSTEIN: Every state in the United States compared to-- Looking at their system, giving what it costs them to operate in comparing them, and then taking averages from the state and making individual

comparisons. Then they did one additional thing, they factored in the New Jersey differences, the density, the amount of lawyers -- all the arguments that you hear about New Jersey -- mathematically and developed a formula that would show the effect of no-fault on New Jersey as compared to the other states. We still factored in that the no-fault was the problem in costing us the money. You'll always have those other factors, and they mathematically took them out under the formula. There are two parts of the study dated May 1987 that do that.

ASSEMBLYMAN GARRETT: Were they able to, in addition to that or instead of that, make a comparison of the two systems that we have right here in New Jersey already? We already have a zero option and the verbal threshold, so you can sort of just look and say all the evidence is right here to make the study as opposed to going anyplace else.

MR. WILDSTEIN: That would be interesting, but I said before we do not believe that data exists. When a member of our organization wrote the Department, we were given the ISO rate-filing data, which doesn't differentiate between lawsuit and zero in New Jersey. There is no data known to us that says that the 10 percent costs this much of the claim package in New Jersey.

If you look at national data, we would expect that 10 percent to pay less percent than 10 percent because when you don't have a threshold you settle the claims early for much lower. What happens with the threshold is you perpetuate the litigation for three or four years. You make people go through all kinds of testing, as you know, which is required by the courts. The value of the claims in the national claims experience is much higher.

New Jersey is No. 1, verbal state, for payment of PIP and claims. New York is No. 2, verbal. In Michigan -- you would expect to be way down because they have a historic low frequency -- on No. 8.

ASSEMBLYMAN GARRETT: Does the fact that since we have verbal and that you say the courts require the attorneys to go through and jump over those hurdles, which by having to do the extra medical tests do substantiate the argument, does that buildup of costs -- for exams and what have you -- build up on the PIP side of the argument? Does that effect the BI payment that is eventually made on that case, or is the BI payment the same, regardless? You got over the hurdle, so you didn't get the same either way.

MR. WILDSTEIN: First of all, they don't require the attorneys, they require the patients.

ASSEMBLYMAN GARRETT: Yes, okay.

MR. WILDSTEIN: And I know that from your experience you know, because you are a defense attorney, you know that if you make an offer early -- let's say within a three- to six-month period on a case -- you can resolve that case. When they adopted no-fault, the companies discharged their early settlement programs entirely. They told the adjustors that you have to wait for the \$200 monetary. Then we went up to \$1900 monetary, but we still were settling cases in the claims stage.

When they had the verbal come in, the adjustors were instructed to settle no verbal cases, whatever, until a judge ruled. By the time the case gets through years and years of waiting and the people go through all of that and they can further document the problems they have, the natural result is

that the claim value goes up. You can look at any state in the United States for that. You don't just have to rely on New Jersey.

ASSEMBLYMAN GARRETT: Obviously if that takes six months or two years, whatever that period of time is, we are assuming that the injury hasn't changed.

MR. WILDSTEIN: No, but what happens is human nature is such that if you go through years of suffering, you might be willing to take X dollars, which is half of what you eventually will take, four to five years later after you've gone through all of these hurdles and you're now important and it's really confrontational.

The system with the verbal makes everything confrontational and makes everything into litigation. Once a case goes into litigation, you will find that the values go up. If you talk to people early and resolve their claims early, you tend to have a satisfaction with a lesser dollar. That's a national experience.

ASSEMBLYMAN GARRETT: This is a decision-making process as far as going for those extra exams and trying to meet the test. Correct me if I'm wrong, it's not of the doctor, because he's just making the examinations. He's not saying you should go for that other exam, he's doing the exam, right?

MR. WILDSTEIN: The doctor is acting with an acceptable standard. What the doctor has been told by the law of the State of New Jersey is contrary to AMA standards: we will not listen to your opinion. So if you do one test and see objective things happening, we in New Jersey, as a matter of law, will not listen to that doctor's opinion unless the doctor tries to do other scientific tests to prove to the insurance industry that the injury that the

doctor says is existing is in fact existing. If technology is such that they can prove it, they will.

ASSEMBLYMAN GARRETT: But, in other words, in practice it's the plaintiff counsel who knows the law and knows that there is this hoop that he has to go through, or has to get over this hurdle, in order to prove to the court that his client is actually injured.

MR. WILDSTEIN: No, I think the medical community knows that now. I think no-fault has taught the medical-- These people do not exist in a vacuum. The doctors know that their opinion has been discarded by the legal system of New Jersey. Therefore, they know that their opinion is meaningless unless they document it with tests which are acceptable. A doctor can always do more tests. Some of these tests you have to do no matter what, and some of them you say, "I could do it or not because I really feel I have an opinion as to what's wrong with the person without the test." But they cannot give that opinion in New Jersey for trauma-injured auto persons because we, as a matter of law, will not let them do that.

ASSEMBLYMAN GARRETT: So it's your position that the plaintiff counsel is not involved in this decision-making process that his client should be going to -- having this test done or to see the doctors so that the threshold is reached. The plaintiff's attorney has no role in that.

MR. WILDSTEIN: In terms of what you're referring, that the plaintiff's counsel are ordering test, no that is not so. In terms of monitoring your case as an attorney, you must monitor it and you obviously know whether you meet the threshold or you do not.

I will tell you that the testimony today, that the cases are not being thrown out, is absolutely in error. The cases are being thrown out, the Appellate Division percentage is reflected in two-thirds of the cases being thrown out that have made a motion.

MR. BERGER: In fact, as Mr. Baker testified last time, there are over 450 cases which have gone to the Appellate Division. Of the 401 unpublished decisions -- and of course, Assemblyman, you're familiar with what that means -- 66 percent of those have been rejected and thrown out under the verbal threshold by the Appellate Division. It's a very tough standard.

ASSEMBLYMAN GARRETT: When Mr. Baker was here his testimony was interesting. I think -- well, the Speaker is not here right now -- he had the same question in his mind, and I remember him asking a question along these lines that I'm going down right now. Although we were talking about a different subject that day, we got into the threshold issue and the statement as to what would happen if we did away with the threshold issue and that hurdle reducing the number of their cases. The argument being made that you reduce the number of cases going through the systems, and these cases would settle quicker and at a lower amount and what have you.

Forgive me, but I'm a little bit incredulous that there is not a participation by some plaintiff counsel, if you did not have the threshold, to still say I want to get the best dollar, the most dollar, on this case. I want to build the case up to the best amount that I can get on it, and if that means that I have to direct my client to get more tests, even though that there is no threshold that I have to meet anymore, I'm going to direct my client to get as

many tests to build up that medical case, so that when I go to try and settle the case I can get a bigger reward on it. I think that's going to happen. He said it wouldn't happen.

MR. WILDSTEIN: Assemblyman, there are trial lawyers in ATLA that exist in that 38 states that do not have no-fault. All you have to do is look at the number, Illinois 8600, California 7600. You will find that it is not so. What happens is if you resolve cases early the entire claims loss goes down. There will be some cases that it will go the full distance, or percentage, but that's because of disputes between the carrier and the claimant.

ASSEMBLYMAN GARRETT: The entire number of cases goes down. Does the entire amount payed out go down as well?

MR. WILDSTEIN: No, the entire amount payed out goes down. They have much lower premiums than we do, much lower. They have to have a reason for the lower premiums, it's twofold. They are paying less total for bodily injury in -- per claim, in claim severity, and they don't have to have the duplicate medical system known as PIP.

ASSEMBLYMAN GARRETT: I guess I'll just conclude. The comment is that I appreciate the fact that you said that you tried to get that data from the DOI, and perhaps, that's the similar data that we should really have so that we can make those comparisons on a even plane. As I sit here and you say the rates went down and the other states in this situation-- Immediately going through my mind is all the other testimony that we've heard from both sides saying how the demographics, how the factors are different in so many other states. We're not like Arkansas for so many other reasons, and I'm sure your actuary put many of those things into consideration.

I guess my ultimate decision would be -- if we could only get that data to show we are comparing apples with apples in the State of New Jersey in order to make that case.

MR. BERGER: It's interesting, Assemblyman DiGaetano asked that very question of the State Farm representatives who testified at the last hearing, and they did not -- or were not forthcoming as to what that data was. So it is a key question.

MR. WILDSTEIN: The issue on all of this, when a company says the rates are going to go up \$150, your question to them should be show us the data. They don't produce the data. They make assumptions. They pull it out of the air. Conference calls are not actuarial studies. Our Department says it is not something you can verify. Ask for the data.

We have given you the data, it's all in there. The reason we can be confident in this is that the data comes from the insurance industry, from the National Association of Insurance Commissioners, ISO, and fast track. The data, we know, is not different, this is what the data shows.

ASSEMBLYMAN GARRETT: Can we get a guarantee from you -- the question was what the insurance industry can guarantee -- the number of cases that you will file will go down and you'll place your own members-- (laughter) Maybe not, okay.

MR. WILDSTEIN: The experience is the number of cases that go into litigation will go down.

SPEAKER COLLINS: Thank you, gentlemen, thank you very much.

MR. BERGER: Thank you, Mr. Speaker and Mr. President.

SPEAKER COLLINS: Next we'll hear from the Ratepayer Advocate for the State of New Jersey, Blossom Peretz.

Thank you for coming in.

BLOSSOM A. PERETZ, ESQ.: I guess it's good afternoon, right now. Good afternoon, Speaker Collins and members of this distinguished Committee.

Thank you for the invitation to speak to you this morning as you and Governor Whitman undertake the challenge and essential task of revising the current system of establishing auto insurance rates that right now gives New Jersey the dubious distinction of the highest average insurance rates in the nation by a considerable margin, according to the experts. New Jersey drivers pay average of \$1013 to insure one vehicle, while in Hawaii, the next most costly state, the average cost is \$959.

I feel a little bit like *déjà vu* being here. As you know, I have been involved in energy restructuring, and we are talking about some of the same issues -- the 10 percent rate reduction, providing a competitive playing field for other carriers to come into New Jersey. I guess while the insurance issues are different, the consumer interests are all the same.

Let me begin by saying that I will not be making any specific substantive recommendations at this time on how auto insurance rates should be structured, such as the testimony has been this morning. I will not comment on the no-fault system, threshold liability rates, tort limitations, risk classifications, or the impact of fraud and uninsured motorists on current rates, or any other suggestions being considered to reduce costs for the state's car owners.

Rather, I will address my remarks to the need to reestablish confidence among insurance rates payers in the integrity and fairness of the rates-setting process and methodology in New Jersey, no matter which methodology you decide to establish after your hearing based on the evidence and based on the testimony of this case.

I am speaking based upon my experiences as the first Ratepayer Advocate and Director of the independent office established by Governor Whitman as of July 19, 1994. As you know my statutory obligation is to represent, protect, and advance the interest of all consumers of utility services, including residential, small business, commercial, and industrial ratepayers, in an effort to protect and promote the economic interest of all New Jersey ratepayers. That includes, of course, the economic interest of the State of New Jersey.

In the almost five years since my office was established, we have participated in proceedings before the Board of Public Utilities affecting the charges and services provided state ratepayers for natural gas, electric, water, waste water, telecommunications, and cable TV. In addition, we participate in the formulation of long-term energy and telecommunications policy and goals affording consumers a previous unheard voice in rate-making and policy-making processes. Again, in the words of Governor Whitman, "By assuring that the consumer's voice is heard at the outset of the rate-making and policy-making process, the plan promotes the development of consensus and spares the state the expense and inefficiency of a process that is reflexively adversarial rather than administratively inclusive."

Our experiences at the Division of the Ratepayer Advocate strongly supports the conclusion that there is a greater public confidence in a public process which provides expressed representation of all classes of ratepayers when state entities make decisions that profoundly affect the costs and availability of essential services like energy, water, and telecommunications, and I suspect also auto insurance rates.

My suggestions on how the rate review process could be improved to restore public confidence in the fairness of the setting of costs of automobile insurance in New Jersey requires an examination, very quickly, of the rate-setting procedures that are currently in place by statute.

Under the present system an insurer or rating organization is required to file any proposed change of rates or rating systems with the Property Liability Division of the Department of Insurance and Banking. The Commissioner, after review of the filing, is required to determine if the proposed rate changes are not unreasonably high or inadequate or unfairly discriminatory. No hearing of any kind is required, but at the Commissioner's discretion he or she may certify the matter for hearing or when he or she is required to do so at the request of the insurance company or the appropriate division or office in the Department of Insurance.

In the absence of such a hearing, the rate changes requested by the insurance company are approved. An increase is deemed to be approved unless rejected or modified by the Commissioner. If the Commissioner issues a hearing order, it must commence 30 days after the decision is made to hold the hearing. Even when a hearing has been set, the Commissioner may require the

use of rates fixed by him or her in advance of any hearings on an interim basis subject to the hearing and any subsequent adjustment of rates if necessary.

I recite these well-known facts to underscore how such a process might appear to the people of New Jersey who are paying ever escalating premiums and who, in most cases, learn about auto insurance rate hikes only after they receive their bills. It is too late then to challenge, or even to understand, the reasonableness of the increase after the fact.

Although the relevant statutes identify the appropriate division or office of the Department of Insurance is acting on behalf of insurance consumers, the Department of Insurance, like the Board of Public Utilities, is responsible for balancing the interest of the companies and the ratepayers. As the insurance rates statute states, the determinations of the Commissioner concerning rate filings require a balancing test. Are the rates unreasonable for the consumers or inadequate for the insurance companies? The Commissioner of Insurance, like the Board of Public Utilities, is a decision maker required to weigh the claims of the industries against the concerns of the ratepayers. I submit a difficult role to play and one not likely that gives the ratepayers a sense that their specific concerns are being advocated.

I respectfully suggest that is more than difficult. I suspect that it is impossible even with good will and good faith efforts under the capable staff of the Department of Insurance and the Deputy Attorney General, that represents the Department whenever automobile rate increase hearings are ordered before an ALJ or Commissioner.

Consideration of efforts by some other states to provide auto insurance ratepayers more confidence in the rate-setting process, without

unreasonably impeding it, might prove helpful to your deliberations. I note that participation of an auto insurance ratepayer advocate not only can improve the level of public confidence in the process, but may even lead to lower rates.

Other states have established some independent representation of the interests of insurance consumers and whose rates are all lower than New Jersey include Texas, Florida, California, Massachusetts, New York, West Virginia, North Carolina, South Carolina. Texas, most notably, has an independent office of Public Insurance Counsel created to represent the interest of state insurance consumers. The Public Counsel appointed by the Governor to direct this office is an attorney who may intervene before the Commissioner of Insurance or Department as a matter of right as an advocate of positions that are most advantageous to a substantial number of insurance consumers.

In addition to the familiar role of participation as a party or intervener on behalf of an individual insurance consumers, the Public Insurance Counsel represents small commercial customers in need of representation, which my office does, too. We represent not only the residential consumers, but the commercial consumers. As a matter of right in any matter before the Department of Insurance, the Public Insurance Counsel may also recommend legislation to a legislature when, in the judgement of the counsel, proposed changes could affect positively the interest of insurance consumers.

Significantly, the Public Insurance Counsel must submit to the Department of Insurance for adoption a consumer bill of rights appropriate to

each personal line of regulated insurance to be distributed by insurers upon the issuance of a policy to each policyholder under rules adopted by the Department. The cost of creating, administering, and operating the office of the Texas Public Insurance Counsel are derived from an annual assessment of 5.7 cents for each piece of auto insurance issued by each casualty insurer authorized to do business in the state of Texas.

In addition to the lack of an independent advocate for auto insurance ratepayers, auto insurance rates are changed and enforced in many jurisdictions, including New Jersey, in a way that does appear covert to some. That is, if the Commissioner determines that the increase or change is not unreasonable, inadequate, or unfairly discriminatory the filing is approved without any required notice or warning to the public.

In South Carolina, under its code of laws, no increase in the premium rates for automobile insurance, and other types of insurance, may be granted unless notice is given in all newspapers of general statewide circulation, at least 30 days in advance of the proposed effective date of the increase in premium rates. The notice is required to state the type of coverage, the amount of the increase, and the proposed effective date. The South Carolina statute permits, within 15 days of such posting of the notice, that any insured or affected party may request a public hearing before an administrative law judge on the propriety of the rate increase.

In North Carolina, to avoid conflict of interest, the Department of Insurance has a special independent Division of Rate Making Counsel that represents the interest of insurance ratepayers unaffiliated with the state Attorney General's Office.

In California, the Commissioner of Insurance must notify the public of any application of an insurer for a rate change. California auto insurance increase applications are deemed approved 60 days after the issuance of a public notice, unless a consumer or his or her representative request a hearing within 45 days of the public notice.

Members of the Joint Committee, in a few minutes remaining I can not provide more details or alternatives for your considerations from other states' auto insurance rate increase procedures. At this time in New Jersey, no public notices are required for rate increases, nor is there representation of the interests of auto insurance ratepayers before rate increases are imposed, nor intervention as a matter of right by a ratepayer advocate when requests for increases are filed. Current New Jersey law does not provide for insurance consumer bill of rights upon which the people of the state can rely.

Comparatively simple amendments to the current Public Advocate Restructuring Act -- which did not transfer representation of insurance ratepayers to the Division of the Ratepayer Advocate as it did the representation of all classes of energy, water, waste water, telephone, and cable TV ratepayers -- and expansion to the Ratepayer Advocate statutory annual assessments, it could provide for an addition, if you think so and if you think it would be appropriate, of an independent consumer advocate for auto insurance to the Ratepayer Advocate's office. Such an advocate could participate in short- and long-term auto insurance policy development with the Department of Insurance as we do with energy policy.

Similarly, if it is deemed appropriate by this Committee in your search for greater representation of a consumer interest and lower rates, a

Ratepayer Advocate whose jurisdiction includes auto insurance could develop an auto insurance consumer bill of rights for the state's consumers and could assist the public education with the initiative that explains the reasons for auto insurance changes, including the importance of a financially healthy insurance industry, so the public does not feel excluded from auto insurance rate-setting policy and process.

I might add that an annual small assessment of all auto insurance carriers authorized to do business in the State of New Jersey in the same way that all regulated utilities are assessed to support the Ratepayer Advocate and will prevent unnecessary adversarial litigation, which was the inevitable consequence of the Division of the Ratepayer Counsel current billing statute.

I leave to your wise, creative deliberations other possible advantages of the independent third voice in the State insurance rate-making process. I'm sorry I had to read so fast, but I'm pressed for time this morning, but I do thank you for your attention and consideration. I wish you every success in your endeavors. You might find helpful the Chinese proverb upon which I frequently rely during my participation in these hectic days of electric and telephone restructuring. With time and patience the mulberry leaf becomes a silk gown.

I recognize the enormous task that this Committee is now faced with, and I thank you for your time. If you would like to talk to me any further about any of the proposals on the table or if you think that they will contribute to proposed legislation, I would be happy to return and speak to you again.

Thank you.

SPEAKER COLLINS: Thank you.

MS. PERETZ: I never spoke so fast in my life.

SPEAKER COLLINS: Does anyone have any questions?

(negative response)

Thank you.

MS. PERETZ: Good luck in your deliberations.

SPEAKER COLLINS: Well, we'll just be wise and creative. This will be a piece of cake. (laughter)

ASSEMBLYMAN CHARLES: And don't you see the silk tie forming around his neck right now. (laughter)

SPEAKER COLLINS: Or is it a spider's web, that's the question.

MS. PERETZ: Some of you are also involved in the electric restructuring. I commend you for your time and patience.

Thank you.

SPEAKER COLLINS: Thank you.

Next we have Edward T. Collins -- no relation -- Counsel, Allstate Insurance Company; Rhonda Woodard, Vice President, Allstate New Jersey Insurance Company; and Michael LaMonica, Vice President, Allstate Insurance Company.

EDWARD T. COLLINS, ESQ.: Good morning-- Good afternoon.

SPEAKER COLLINS: Good afternoon.

MR. COLLINS: Mr. Speaker, members of the Committee, my name is Edward T. Collins, and on behalf of Allstate New Jersey Insurance Company, I thank you for the opportunity to participate in today's discussion.

Allstate applauds you for taking on this critically important issue. It's clear that you are approaching it in a responsible and comprehensive way, and on behalf of our customers we thank you for that. It's also clear that consumers consider this to be an issue of top importance. They have told us that repeatedly in surveys, focus groups, and contacts to our toll-free telephone number and Internet site. That input provided us with the basis to offer the comprehensive written plan we provided to each of you, a copy of which I have here.

Based upon that input we think that we must all pursue comprehensive reform, not just tinker with some of the cost containment measures as some might suggest. The comprehensive reform elements that I will summarize include addressing fraud, choice, and competition.

We are all painfully aware that fraud is rampant in this system today. You took a major positive step forward in helping to address that by enacting the Health Care Fraud Act last month. Just putting more laws on the books will not deal with the issue. It will not help reduce fraud unless we aggressively prosecute these new crimes.

To do that we would suggest that you include in your comprehensive reform bill explicit provisions to direct resources from the Insurance Fraud Division. We heard earlier that there was \$14 million currently dedicated to the Insurance Fraud Division and dedicate some of those resources to criminal prosecutions. We'd also suggest that you consider appointing special auto fraud prosecutors to work directly with insurance professionals at the county level where prosecutions are made. Criminal, and not just civil, remedies are needed to wage this battle effectively.

We also support efforts to combat the abuse and overutilization in the system today. Efforts to fix the current arbitration process, medical fee schedule, and verbal threshold that we heard a lot about earlier today would help accomplish that. Consumers also want more choices in determining what coverages the government forces them to buy. Today, as we are all painfully aware, consumers are forced to buy the most expensive coverage package in the country. Revising the current mandates would provide consumers with the choices they want and deserve.

Finally, consumers deserve to reap the benefits of a competitive marketplace. Today we want to focus on that issue of competition. We haven't heard a lot in the hearings to date about the issue of competition, we would like to focus on that today. The reality today, in fact, in New Jersey, is that insurers do not compete for business. Instead, they compete to avoid all but the very best business. This is particularly true of the urban market where few carriers are willing to serve consumers and real competition is nonexistent.

To help address this issue, I would like to introduce Rhonda Woodard, Vice President of Allstate. Rhonda leads our underwriting department and is a member of the Board of Directors of Allstate New Jersey Insurance Company. Rhonda is a recognized expert countrywide on risk selection and the correlation of price to risk. She is also an expert on insurance availability and affordability, particularly as those issues relate to the urban market.

Also with us today is Michael LaMonica, also an Allstate Vice President. Mike leads Allstate's actuarial department. He is a Fellow of the Casualty Actuarial Society and is a member of the American Academy of

Actuaries. He can assist with the discussion today and particularly address questions you might have regarding pricing issues.

With that, I now turn the discussion over to Rhonda.

SPEAKER COLLINS: Before you testify, Senator Adler had a question.

SENATOR ADLER: Mr. Collins, I was intrigued by your comment that carriers compete in ways to avoid business in New Jersey.

MR. COLLINS: Yes.

SENATOR ADLER: And I presume you mean that particularly in rated territories in urban markets. I guess I would be curious to having described for me the different ways in which carriers avoid business and circumvent a State law which requires all carriers to take all comers. So if you can describe the ways in which Allstate and other carriers break New Jersey law-- (laughter)

I'm not joking about that. I'm awfully curious about this issue.

MR. COLLINS: Certainly, Allstate Insurance Company is in strict compliance with the law. I did not mean to suggest, nor did I say, that any company is violating the law. Instead -- and we're going to get into this in the testimony -- we've created a system in New Jersey that creates disincentives for companies to serve the full marketplace. Those disincentives relate to the 1983 political subsidies that were created, we heard referred to as the territorial rate caps, and to take-all-comers system.

With respect to -- and Rhonda is going to address this in more detail -- the manner in which companies compete to avoid writing all but the

very best business, they, quite frankly, take advantage of agent deployment of the use or--

SENATOR ADLER: What does that mean?

MR. COLLINS: The placement of agents.

SENATOR ADLER: So you don't place agents in urban areas as a way to avoid having contact with urban consumers that want to buy policies?

MR. COLLINS: If you're an agent company, correct.

SENATOR ADLER: So you just fire agents that might be living -- or tell agents don't set up offices in urban areas.

MR. COLLINS: They may.

SENATOR ADLER: That's what Allstate has been doing?

MR. COLLINS: Absolutely not. In fact, Allstate is the No. 1 carrier in the State of New Jersey and is by far the No. 1 insurer in the urban market. We, in fact, fully serve the marketplace. We are in strict compliance with the take-all-comers law, both in letter and spirit.

SENATOR ADLER: So you're saying other carriers have these various techniques and methodologies for avoiding urban or rated drivers.

MR. COLLINS: Well, the evidence speaks for itself. You have a number of companies -- and the Insurance Department is going to be coming out with a report on this very soon -- that have very little urban market penetration. The only way in which to do that is to either through your agency distribution system or the manner in which you do distribute products, not make yourself available to those consumers.

The evidence speaks for itself that that is in fact the case, that many companies in the State of New Jersey do not have a significant presence in the urban market.

SENATOR ADLER: Before going to Ms. Woodard, do you have any thoughts on how we might properly sanction those carriers that are pursuing the policy that you've just described?

MR. COLLINS: We do. We think that to deal with -- and we're going to get into this in our testimony -- those noncompetitive forces that discourage companies and investors from fully serving the marketplace we have to deal with the 1983 political subsidies and we have to deal with the take-all-comers restrictions. Those are the only ways, in a meaningful way, to get at the noncompetition in New Jersey.

We think that as an interim step, before we get to a fully competitive marketplace, strengthening the urban enterprise zone would have great merit so that consumers in the urban market have more assurance short term, in the interim before we get to a fully competitive marketplace, that insurance is more readily available to them by the company or from the company they are choosing.

We also think and have suggested in our comprehensive written proposal that there is merit in creating a consumer information database so that consumers can access, either through the Internet or other means -- a toll-free telephone number -- information that they currently do not readily have available to get insurance from a company of their choice. So we do have comprehensive plans. The answer is, to get to a truly competitive marketplace,

you must deal with, finally, the 1983 political subsidiaries and the take all comers.

SENATOR ADLER: I'll let you go. I'm sorry that you haven't had your chance to start. I guess I'm grappling with whether or not your proposal includes any sort of penalties or sanctions going forward for those carriers that seem by policy to be intentionally avoiding the take-all-comers law and avoiding urban drivers.

MR. COLLINS: No, we do not suggest that at this moment in our plan. Again, our emphasis is on getting--

SENATOR ADLER: I understand your emphasis.

MR. COLLINS: --to a healthy marketplace and its competition because the answer is competition.

SENATOR ADLER: Okay.

SPEAKER COLLINS: Assemblyman Doria.

ASSEMBLYMAN DORIA: Just one follow-up question to Senator Adler's. What you're saying then is that the companies that are in spirit or in fact breaking the law in New Jersey -- the way to solve the problem is to change the law, because obviously, if the companies are breaking it, it's a bad law. Is that what you're saying?

MR. COLLINS: I'm saying that the 1983 political subsidiaries that were created as part of a JUA law have proven to be a failure. They've proven to be a disservice to the urban consumer and consumers throughout the state, and in conjunction with that the take-all-comers law is actually hurting the marketplace because it's restricting competition.

ASSEMBLYMAN DORIA: So if I use the analogy a little further along, because a law is not enforceable, then the law should not exist. Is that what you're saying?

MR. COLLINS: No, I'm suggesting that it's a bad law because it's anticompetitive. The insurance marketplace works best when it is competitive. Anticompetitive laws are bad.

ASSEMBLYMAN DORIA: You say it's bad.

MR. COLLINS: History has proven it, economics have proven it, the marketplaces throughout the country have proven it.

ASSEMBLYMAN DORIA: So you believe then that if a law is not enforceable and the people who the law is enforced against did not comply with, then obviously, the law must be bad and as such we should change it. Is that what you're saying?

MR. COLLINS: No. I'm suggesting that the 1983 rate subsidy law and the take-all-comers laws are anticompetitive. To truly reform the New Jersey marketplace we need to deal with the cost containment measures that we have heard a lot about, but we also have to move to a competitive marketplace. Until we deal with those very difficult issues, we will not have a competitive marketplace in New Jersey.

SPEAKER COLLINS: Let me ask a question. I'll phrase the question. I heard you three times say about the competitiveness, and so on. Let me ask you this. If a law of the State of New Jersey is not followed for whatever reason -- anticompetitiveness -- should not the State enforce that law and the penalties involved against whomever breaks that law?

MR. COLLINS: Absolutely.

SPEAKER COLLINS: That's all I had to hear you say.

MR. COLLINS: And they are being enforced. I didn't mean to suggest otherwise.

SPEAKER COLLINS: Well, you didn't just suggest it, you never quite said absolutely. My question would be, if we were to put future laws in, be competitive or anticompetitive or whatever, in auto insurance that affect companies, would you -- it's not in your plan now in answering Senator Adler -- but would you, depending on the wording, etc.-- This is a law that we are going to pass that some penalties against those who don't follow the law, would that not be something that at least would make sense?

MR. COLLINS: Absolutely.

SPEAKER COLLINS: Okay, thank you.

MICHAEL LaMONICA: Mr. Speaker, with all due respect, there is--

SPEAKER COLLINS: No, you don't even have to give me any respect. (laughter)

MR. LaMONICA: --a different spin that -- from an economic point of view that I think might help.

SPEAKER COLLINS: Let me just, if I may, Assemblyman Charles has a question. We surely want to hear not just the spin, but the economic impact. But this was a very simple question, and I think we finally have the answer from Mr. Collins that we have a law, the law should be enforced, those who don't follow the law we should come down on, so to speak.

But let me hear from the Assemblyman, and then we'll go to our distinguished visitor who has come a ways to be here, and then it will be all your show.

Assemblyman Charles.

ASSEMBLYMAN CHARLES: I guess my question to you would be whether the-- Let me start it this way. The State of New Jersey does things and the Legislature does things for public policy reasons having to deal with the people we represent, what we consider to be in the best interest of all of the people across the State of New Jersey. Sometimes that results in some policies that people who are in business purely wouldn't adopt if they had their way.

In the State of New Jersey we, since 1983 and before that, even as to automobile insurance and as to other areas that affect the public generally, we have taken positions as a Legislature that are designed to create reasonable circumstances for all of the people of the State of New Jersey. That's what we have done with insurance, and that's what the 1983 program was about with territorial rate caps.

You, in your position, in talking about proposals that suppose and that call for just an unrestricted free marketplace without any superimposed social or other policy considerations-- Is that true?

MR. COLLINS: No, we recognize in New Jersey the validity of currently the prior approval rating law, the support, the requirement currently in New Jersey. We have got a long way to go in terms of competition but recognize that the prior approval by the Insurance Department is appropriate for underwriting rules. So there is a lot of vivid protections in the law that do

not include proposals like -- or the laws including the 1983 political subsidies and take-all coverage.

ASSEMBLYMAN CHARLES: What about this, for example. Some legislators, myself one of them, feel that since we do have-- Automobiles are an essential thing for everybody in the State of New Jersey, that everybody should have it. So that for all the reasons that insurance is necessary to protect people, we ought to have that. In requiring it and people having to get it, we ought to have as equal a cost associated with that coverage as is possible so that there is no disparities or unfair disparities across the State of New Jersey just based upon the action of where you live, either by choice or by just circumstances.

So that being the case and that being the belief of some of the Legislature and that being reflected in some of the public policy of the State of New Jersey, the 1983 -- you talk about as a political subsidy. My question to you would be this: can't you, as an insurance company, function within that kind of regulated -- we'll call it regulated -- environment? And what stops you from competing with other insurance companies within that regulated environment even though it is not a 100 percent free enterprise environment? Why don't you take all comers, for example? Why don't you make insurance policies available to everyone within that regulated environment? That reflects the public policy of the State of New Jersey.

MR. COLLINS: Assemblyman, that is an excellent question. If I could, Mr. Speaker, the answer to that really lies--

SPEAKER COLLINS: Okay.

MR. COLLINS: --in Rhonda's testimony.

SPEAKER COLLINS: I was thinking that myself. Why don't we keep that excellent question on the frontal lobes, and eventually, if it's not answered, we will go back to that.

ASSEMBLYMAN CHARLES: Mr. Chairman, then it's not a short answer, it apparently is a long answer that's caught up in a lot of the different policy considerations that we are going to hear now or sometime this afternoon.

SPEAKER COLLINS: I would think it would probably be in direct proportion to the length of the question. (laughter)

ASSEMBLYMAN CHARLES: That's about two-minutes worth, and I'll accept two minutes at this time.

SPEAKER COLLINS: I know and we'll multiply it by 30 and we'll hear from them.

One more second, if I may.

ASSEMBLYMAN GARRETT: I'll defer back.

SPEAKER COLLINS: Assemblyman Garrett will defer.

R H O N D A W O O D A R D: I'm Rhonda Woodard. It is clear to me from the start that we are going to have a spirited discussion and I look forward to that. As Ed explained, consumers have demanded and deserved comprehensive reform, which really does give them the opportunity to pay less for insurance by giving them more choices within a more competitive market. In evaluating reform proposals, it's critical to consider the issues that relate to the urban market because New Jersey's automobile insurance market will never be functional until the challenges facing the cities are met.

In New Jersey, Allstate has the highest market share in urban areas and has lost hundreds of millions of dollars as a result. In fact, the more urban consumers and insurer servers in this state, the greater the competitive disadvantage it has.

Let's talk about insurance availability first. Consumers in the urban market, we believe, have difficulty finding insurance primarily because of a combination of the take-all-comers law and the political decision that was made in 1983 to create artificial rate subsidies. In the early 1980s, the State made the public policy decision to essentially socialize the automobile insurance by creating the JUA.

As part of that plan, which became effective in 1983 and we have been talking about already, the State passed a law which still exists that provides that insurers may not charge more than 135 percent of their statewide average rate in any rating territory. What that means, for example, is that if an insurer's average rate statewide is \$100, then it can't charge more than \$135 anywhere, in Camden, for instance. That's regardless of what the losses are. In that scenario, the losses could be \$150 or it could be \$180 or \$200, but the rate is capped at that 135 percent level.

In order to enforce the rate caps, it was also deemed necessary to require all insurance companies to divide the state along the same lines for purposes of defining the rating territories. Those definitions were established in the 1960s. The JUA was a total failure, it was repealed, but the rate subsidies that were created still exist today. The same territorial definitions exist today. Because of those artificial caps and the outdated territorial definitions, regardless of actual losses and the inability to charge an adequate

rate at most markets, insurers want to underwrite as few of those drivers as the law permits. It's not surprising, then, an investor would be reluctant to invest in an endeavor that is designed to lose money.

The other barrier to consumers in the urban market is the take-all-comers law. As you know, the take-all-comers law requires insurers to provide coverage to virtually anyone who asks for it. Insurers can not make distinctions between those who have clean driving records, for instance, and those who have multiple violations and may drive irresponsibly or have had numerous losses. Under New Jersey's take-all-comers law, about 98 percent of the drivers are technically guaranteed coverage in a voluntary market.

Although this law was intended to make sure that consumers throughout the state could easily get coverage in the voluntary market instead of the JUA or MTF, that has not been the case. If an insurer decides to serve the market, serve the cities, to take all comers, we actually expose ourselves to the highest and the worst risks that is out there in the marketplace. Because of take all comers, the only way to avoid those risks is to avoid the market. Few insurers fully serve the urban market, we believe, because of that fact.

For urban consumers, we believe that lies as the core of why they have so much difficulty finding insurance from the company of their choosing. They are forced in many cases to drive many miles to even find an agent. If you happen to be talking about a company that doesn't use an agent, then they have absolutely little or no opportunity to find those companies.

SPEAKER COLLINS: Ms. Woodard.

Assemblyman -- excuse me -- Senator Adler.

SENATOR ADLER: You never--

SPEAKER COLLINS: I didn't mean to give you that prestigious title, Senator. (laughter) We are a very select group, and we will consider your admittance.

Go ahead, Senator.

SENATOR ADLER: I will keep trying.

I just heard your testimony similar to a discussion that Mr. Collins, rather than Speaker Collins, had moments ago. I guess I don't get the notion of why we should change the law rather than just punishing those carriers that, in fact, run away from our cities, run away from our urban markets, and abdicate their legal responsibility under New Jersey law to write policies to all comers.

I guess what you are saying is, if they come far enough -- somebody from Camden goes all the way to where a suburban agent has an office -- maybe at that point the agent has to take the person. The essence of what you're saying is that people are fleeing-- That agents under direction from their carriers are having to -- forced to flee the urban markets.

I'm struggling with the notion of why we don't somehow fine those carriers and punish them and make them, one way or another, share the social responsibility and economic responsibility, and therefore, spread the cost among all carriers fairly so that Allstate and the other carriers that are playing in the urban markets don't bear a disproportionate share of that burden.

MS. WOODARD: I think if we focus just on the penalty that we'll be dealing with a symptom rather than--

SENATOR ADLER: Let me interrupt you. I'm not saying we should focus just on the penalty. I'm asking you why Allstate doesn't advocate

our penalizing those carriers, your competitors, that are breaking State law and therefore pushing on to Allstate a greater percentage of the urban drivers?

MS. WOODARD: Our focus has really been on how we think we can fix the marketplace. It is within the providence of the Insurance Department and within the providence of this Committee to decide what penalties, if any, would be appropriate for people who choose not to do that -- for companies who choose not to do that. I don't know that that is our role, either in terms of our proposal or in terms of our comments here today.

So we are really focused on the incentives that might help bring companies into the marketplace verses simply dealing with the consequences of not being there. Even if, under regulation that we have today, we were to somehow penalize and compel companies into the marketplace, we would still be left with this issue of running a business that is essentially unprofitable because of the way rates are promulgated and because of the way territories are defined. We'd still be left with that issue.

SENATOR ADLER: Okay, I'll come back to you.

SPEAKER COLLINS: Assemblyman Garrett.

ASSEMBLYMAN GARRETT: Just a brief comment, and Senator Adler seems to follow up on this issue a number of times. Just running through my head some of the possibilities that we could possible come up with, perhaps caning or something else as far as the carriers that don't do the business there.

Can we as a State force carriers--

ASSEMBLYMAN CHARLES: We have lethal injection.

ASSEMBLYMAN GARRETT: Or lethal injection.

Can we as a State force carriers who are currently not writing business in New Jersey to come into the State of New Jersey?

MS. WOODARD: Is it within your power?

ASSEMBLYMAN GARRETT: Right.

MS. WOODARD: Yes, it is.

ASSEMBLYMAN GARRETT: We can force the carriers that are in other states to come in and start writing in New Jersey?

MS. WOODARD: No, I'm sorry I didn't hear your question.

ASSEMBLYMAN GARRETT: Are we able to force carriers-- If you don't give me the right answer, then you throw me off. (laughter)

SPEAKER COLLINS: The answer is no. I'll answer for them, Assemblyman. No, we can't do that.

MR. COLLINS: You heard an important fact earlier today, you heard it a number of times; that is that five of the top ten national writers refuse to do business in New Jersey. You can't legally force them, but the only way you can attract them--

ASSEMBLYMAN GARRETT: Exactly.

MR. COLLINS: --is with a healthy competitive marketplace. That's going to ultimately benefit the consumer the most as having those companies actively--

SENATOR ADLER: Why wouldn't they want to--

MR. COLLINS: --fighting for business.

SPEAKER COLLINS: Senator, let him finish. We'll come back to you. We'll give you a chance. We have Senator Codey ready.

Are you finished, Mr. Collins?

MR. COLLINS: Yes.

SPEAKER COLLINS: Assemblyman Garrett.

ASSEMBLYMAN GARRETT: That answers the questions, thank you.

SPEAKER COLLINS: Senator Codey. (no response)

Or you can waive your time to the right, honorable gentleman, from Camden County. Whatever you want to do.

SENATOR CODEY: Is that what you say in the Lower House, right, honorable gentleman?

SPEAKER COLLINS: Right, honorable, we do all that.

SENATOR CODEY: I just want to know. You do more than your fair share of writing policies for people in urban areas. How many offices do you have, say, in Newark, Orange, and East Orange?

MR. COLLINS: I can't answer that, Senator. I know we have the largest market share, but I can't tell you where our actual agent location is.

SENATOR CODEY: You don't--

MR. COLLINS: I don't know. I know we have the No. 1 volume of business in those particular jurisdictions, but I cannot tell you the location or the address of the office or offices that serve there.

SENATOR CODEY: Is that, to be honest with you, not cognizant of seeing any, other than in West Orange, which is a few blocks away from the City of Orange, which forces people to drive to the suburbs just to -- unless you're going to do it over the phone, which many of them don't as opposed to some people in the suburbs--

This thing that you were talking about with Senator Adler, about doing away with all comers and make it more competitive, how would that drive down the price and at the same time insure that those people have the ability to buy insurance? Can you explain that to me?

MS. WOODARD: That is a part of what we want to talk about.

SENATOR CODEY: Explain to me how that will happen.

MS. WOODARD: Those two things will happen.

When we talk about reform in take all comers, one of the things -- within position companies -- to do would be to make different rates within the cities if that were the case that needed to occur, not just between the cities and the suburbs, but also within the difference between individual drivers and their driving records.

As it stands right now with take all comers, the exposure that you have to drivers whose loss experiences are very high, the exposure that you have to fraud -- because you are virtually unable to do any running in screening and selection, if you will -- all of those things work their way into the rate that we have on the street today. Someone who has an excellent driving record, theoretically, should have a lot more opportunity to bite down the cost of their insurance than what the regulation today allows them to do. In the interest of sameness--

SENATOR CODEY: So you're saying that people--

MS. WOODARD: In the interest of sameness, what the law has actually said is that those people whose experience is, in fact, much better don't get the benefit of that. That we are going to average the costs between those who are much worse and those who are much better, and this person who is

much worse isn't going to pay as much as they should. This person whose driving record is much better won't pay as little as they should.

SENATOR CODEY: So people on the same street in the City of East Orange, one with a good experience and one with a bad loss experience, would have much different rates.

MS. WOODARD: They have a potential to have much different rates, too. When you can begin to offer discounts and do some of the other creative things in rating plans that recognize all of the differences that those two drivers represent, absolutely they could--

SENATOR CODEY: Okay, would that rate--

MS. WOODARD: The base rate for the territory would be established, but then within that territory, drivers who are worse would pay more, drivers who are better would pay less. If you combine that with drivers being able to choose the kind of coverage that they want, to buy the amount of injury protection that they feel they need, to decide whether or not--

SENATOR CODEY: Can't they, under the tier system, choose that now?

MS. WOODARD: There is some mandatory coverages that-- The mandatory coverages in New Jersey go much further than typically we see.

SENATOR CODEY: Okay. What would happen for the driver with the bad experience in terms of making a decision that the cost is so prohibitive it's not worth it, "I'm going to drive uninsured"? At which point do you add to the number of uninsured? It's got to happen. I know Florida has a program where they have a bounty--

MS. WOODARD: For the plates.

SENATOR CODEY: Right. If you bring in the license plate of cars that are uninsured, they will pay you. The state will pay you to bring them to you, but at some point, especially in those areas, they have to make a conscience decision to say that it's not worth it to buy insurance. "It's silly for me to even to think about buying insurance. I'm better off being uninsured."

MS. WOODARD: I think the less coverage that people are compelled to buy -- the compulsory, minimal liability -- I think if we get it down to that, then we certainly go a long way towards affecting what the cost of the policy is going to be for that person.

SENATOR CODEY: Unless--

MS. WOODARD: There are a lot of scenarios that have been created around the country to try to deal with uninsured drivers. There is everything from, when you register your vehicle, you have to provide proof to, if you're stopped for a violation, your license plates are confiscated. The challenge in all of them is continuous reinforcement because at any point in time that person can drop that coverage under this system or any other system. That's what really makes it very difficult. You cannot compel people to stay insured irrespective of where your price is. If they are not responsible in that way-- When people want to be responsible and they can't make some of the selections that we would like them to be able to make or they can't shop the companies that we think they ought to be able to shop, I think that, perhaps, puts more pressure on the system for people to go uninsured.

SENATOR CODEY: Yes, but you advocate doing away with the all comers and would state -- tell me if I'm incorrect -- that it would become a

competitive marketplace, and even those people living in an urban area as a bad claim experience would still have people competing for their business.

MS. WOODARD: Absolutely. There are a number of companies, Allstate included, that has-- We have two companies, and in many states around the country, we are competing for the full spectrum of business that is out there in the marketplace. The nonstandard market is a viable market in the automobile insurance industry, and it's a huge market in most states around the country.

MR. COLLINS: It's true in some cities right across the borders, New York City and Philadelphia are examples, where you have very healthy, vibrantly competitive marketplaces in those cities with the same kind of cross issues that we are talking about.

SPEAKER COLLINS: Assemblyman Doria.

ASSEMBLYMAN DORIA: You're saying New York and Philadelphia and the people there are very happy with the type of insurance that they have. Is that what you're saying? (laughter) My question was going to be, why do they then come over to New Jersey and buy insurance in New Jersey? We have found out significant numbers of them cross the border -- in Philadelphia they come to South Jersey and New York they come to northern New Jersey. If they are so happy--

MR. COLLINS: I hear you. There is a challenge with respect to rate evasion. There is no question about that. We need to, more aggressively, combat rate evasion. This Insurance Department has made some great strides in battling rate evasion.

My point was, Assemblyman, that you have a vibrantly competitive marketplace. If they seek to purchase insurance in Philadelphia they can do so.

ASSEMBLYMAN DORIA: Then why do they come to New Jersey?

MR. COLLINS: Because they are trying to break the law and get a better price.

ASSEMBLYMAN DORIA: So it's vibrant and much more competitive, but the cost is much more than Philadelphia or New York -- than the highest rate state in the country, New Jersey. Is that what you're saying?

MS. WOODARD: It's really interesting to sort of watch the dynamics of contiguous states because New York goes to New Jersey; some New Yorkers try to go to Connecticut; people in Connecticut may, in some instances, if on the border-- We all understand that people want to pay as little as they possibly can for their automobile insurance.

ASSEMBLYMAN DORIA: So they are paying less in New Jersey than Philadelphia and New York.

MS. WOODARD: They want to pay as little income tax. We all want to do that, we all want to accomplish that. So if we can't work by taking costs out of the system, by reflecting the risk that a particular territory or coverage or whatever else-- If we can't take some cost out of that and take some expense out of that and get that rate down, people are going to do everything they can to go someplace where all those states already have it.

ASSEMBLYMAN DORIA: Through you, Mr. Speaker.

SPEAKER COLLINS: Surely.

ASSEMBLYMAN DORIA: So what you're saying is that you haven't been able to do that in Philadelphia and New York, and that's why they are coming to New Jersey. You said it is more competitive in Philadelphia and New York.

MS. WOODARD: No, Assemblyman Doria, that's not what I'm saying.

ASSEMBLYMAN DORIA: Well, that seems to be the facts.

MS. WOODARD: Shall I say again what I'm saying?

ASSEMBLYMAN DORIA: Say it again.

MS. WOODARD: I am saying that all of us who purchase products want to purchase it at the cheapest price possible, and if somebody shops around in Philadelphia, in a very competitive marketplace, and finds that based on the risk that they have there in Philadelphia, the best price that they are going to be able to get is \$500, but if I lived in Camden, not that my risk would be different, but just because I use -- their risk is different, then I'm going to pretend I live over there and take advantage of that lower rate. That's what I'm describing.

ASSEMBLYMAN DORIA: So you're agreeing with me that there is a lower rate, then, in Camden, in that specific instance?

MR. COLLINS: Yes, there is communities all over the country that have higher costs of insurance than the statewide average in New Jersey. So you're right. You're always going to have rate evasion challenges because, as Rhonda points out, there is always going to be people out there who are going to try and break the law and say they live in an address where their aunt

lives, for example, to get a more favorable rate. We even see that in Illinois. It is a challenge, you're right.

ASSEMBLYMAN DORIA: I agree, there are people looking for a cheaper price. That's what it's all about. Just like companies are evading the law, people evade the law.

Thank you, Mr. Speaker.

SPEAKER COLLINS: Thank you, Assemblyman.

Please continue, Ms. Woodard.

MS. WOODARD: I was at a point--

SPEAKER COLLINS: Oh, I'm sorry. I thought you had spoken for the distinguished gentleman from Camden County. (laughter) If you'll excuse me.

Senator Adler.

SENATOR ADLER: I've heard testimony from Allstate today about the concern about the rating territories. I think, Ms. Woodard, you were the one that pointed out the rating territories date back 30 years, maybe much more than that. Has there been any talk of revisiting where the lines are drawn, keeping rating territories? Not doing what Allstate is describing of eliminating them, allowing market forces to prevail -- and having the devastating affect that Senator Codey and Assemblyman Doria have described. Has there been any rational discussion that you recall about just revisiting where the lines are drawn to make them fairer for all people in New Jersey?

MR. COLLINS: It's a great point, Senator. There has been talk from time to time historically in New Jersey doing that, but there has never been the courage exercised to actually make that happen. A critical aspect of

our proposal is to not just deal with the 1983 political subsidies, but in fact, it is to abolish the uniform territorial definitions all companies are required to adhere to that were developed in the 1960s.

Mr. LaMonica can address the fact that in other markets in all other parts of the country, insurance companies are required to compete with one another in defining their territories, which gives additional opportunity for consumers to shop. So that there is no other state in the country that has uniform territorial definitions like we have in New Jersey, which is exacerbated by the fact that they are from the 1960s.

You raise a very critical point, which is we're not suggesting that you just repeal the 1983 political subsidy. You have to knock down those uniform territorial definitions and move into the 20th century with competition.

SPEAKER COLLINS: Senator, if I may. Those-- That 1960 alignment, who created that? I don't mean the law, but were they made up by insurance companies, by whomever?

MR. COLLINS: Originally, the Insurance Services Office -- and, Mike, you can probably tell them a little bit about the ISO.

MR. LaMONICA: Well, the Insurance Service Office created those, and the industry pretty much followed them. Back then the technology that they had pretty much was-- The territories were defined by what I would call observation people. They would drive around and look at the territories and try to make intuitive decisions about where there would be differences, and then they basically created statistical definitions. A lot of times those statistical definitions followed municipalities. That's why you end up with

territories like Camden, Newark, etc., that we have today. Then once those statistical boundaries were set up, over time they just collected data according to those boundaries that's said, well, how much should the rates differ.

In the 30 years since those were set up, not only do we have data in much more refined detail -- we have zip code data -- but the actual risk environment -- the driving environment -- has changed between all those territories, and within any territory that you have today, you have a city that may be one rating territory today, but there are vastly different driving environments in different parts of those cities, and that's what we're are looking to be able make those types of distinctions.

SPEAKER COLLINS: And who would make-- If we were to come up with new territories or one statewide territory or whatever else, who would you suggest should make them up in 1998?

MR. LaMONICA: Each company, I believe, in a competitive marketplace would look to their own data and define their own territories in that type of a competitive marketplace. That's the way that we do business in virtually every other state in the country.

SPEAKER COLLINS: Going back to where we have been a couple of times, if that were to happen and the companies all do what they want to do there, then we would still have our take-all-comers policies and we would keep -- and you set the territories. You have this rate and if it's someone here, would that be something that should--

I'll let you in, in a minute, I control it all now. (referring to PA mike) When I hit the button you may speak. (laughter)

That we would take all comers and then going back to where we've been -- and I think where this Committee is going to be at the end of all of this -- when we have the law, enforce that law in the strictest way, some even suggested with criminal penalties, which will be part of discussion. Would all of that be appropriate?

Now you can hit your button.

MR. LaMONICA: Now I can hit my button, thank you. What we firmly believe is that in a competitive marketplace, if companies are able to charge -- define the territories the way that they feel are appropriate, charge the rates that they feel are appropriate, every company that is doing business has the incentive to write business, they will be marketing for business.

You wouldn't need a take all comers because any person that showed up at any company's door should have a rate available for that customer. Customers would have not only the opportunity to go to one or two particular companies that might be serving the market, but they have the opportunity to shop and go to several different companies, and all those companies would have an interest in wanting to write those people because the rates are appropriate for them. That's the way that we do business in virtually every other state.

SPEAKER COLLINS: Senator Adler, anything else at this time?

SENATOR ADLER: Not on this point, for now.

SPEAKER COLLINS: Assemblyman DiGaetano.

ASSEMBLYMAN DiGAETANO: Thank you very much, Mr. Speaker.

There are those who, in testimony before this Committee, have suggested that insurance carrier companies charge artificially higher rates for the no threshold portion of their policies because they really don't want to write those types of policies. What reason does this Committee have to believe that if we take these territorial caps and do away with them that insurance carriers wouldn't do pretty much the same thing with respect to the policies in general in areas that they would choose not to write?

MR. LaMONICA: In a competitive environment, if a company had the ability to overcharge a particular customer, there is a company right down the street who's going to look at that and say, "I have a lower rate that I can compete with," and market to that customer as well. That's the way it works.

MR. COLLINS: In addition, we are not suggesting that we are at a point yet in New Jersey where we would repeal prior approval rating, so insurance companies would be obligated to file their territorial definitions, with the data to support them, with the Insurance Department as well as the rates that Supreme Court in *Oswin v. Shaw* interpreted the threshold in a manner that could arguably be defined as the most stringent in the country. And I think you've heard that even from insurance company witnesses before today they would charge pursuant to their rating plan, as is the case today. So the fact of the matter is the companies would not have full free market freedom to charge whatever they wanted. They would be obligated to file and get approval from the Insurance Department. And, of course, you have an excess profits law you've heard about, too, in New Jersey, which is the strictest in the country, that would inhibit any company's ability to charge excessive prices.

ASSEMBLYMAN DiGAETANO: I understand that, but we in the Legislature, every 10 years, we redraw our districts, and there are some that would argue that when that's done, the parties generally predict, or have an idea, what the voting trends within those boundaries will be over the next 10 years. On that same basis, what reason would this Committee have to believe that when you draw your territories, when you draw districts, and each company would draw their own, that with today's technology you couldn't get down to, as you just said, a section of a community and say, "This is a particularly bad area. We're going to charge 100 percent or 150 percent of our statewide average," or maybe more for that area, maybe even a couple of blocks, maybe even down to one specific address where there seemed to be a number of claims? What reason does the Committee have to believe that that wouldn't occur?

MR. COLLINS: It does not happen in any marketplace across the country, where companies are, in fact, obligated to develop, on a competitive basis, their territorial definition. So what we're suggesting is importing the benefit of that experience from countrywide and apply it here in New Jersey.

ASSEMBLYMAN DiGAETANO: With respect to that countrywide information, do you have any data to give to this Committee today as to the differences in policies over and above the rate -- the 135 percent, I think, we have in New Jersey? Do you have any of that data to give to us today, in those other states?

MR. COLLINS: We may. I'm sorry, Assemblyman, I don't understand the question.

ASSEMBLYMAN DiGAETANO: The differences between their premiums in all parts of the state and our current law, which is 135 percent of the statewide average.

MR. LaMONICA: It varies from state to state. There are a lot of states that have rating territories that are significantly higher than 135 percent above the statewide average. Again, it-- The territories, as we look at it state by state whether it's in New Jersey or even in Illinois-- Territories in-- Having differences in rates by territories are simply a reflection of the driving environment. It's not a reflection of the people who live there; it's a reflection of the driving environment. You have different traffic patterns. You have traffic density. You have different costs of car repair. You have medical care and the degree of utilization. You have different rates of theft. And our territorial rates are simply a reflection of that, of the driving environment, not the people who live there. And that's going to vary from state to state, and within the state it's going to vary. In some states you don't find a big spread because you don't have significant differences. In states with urban, large metropolitan areas-- In Illinois, the rates in Chicago are significantly higher than the statewide average, and they're more than 135 percent above the statewide average.

ASSEMBLYMAN DiGAETANO: Do you have an idea how much more than the 135 percent?

MR. LaMONICA: It would just be a guess, and I probably wouldn't even be close.

ASSEMBLYMAN DiGAETANO: Closer than we would be, I'm sure.

One last question. Do you have any data to give this Committee today or do you have any knowledge of data with respect to the differences in the areas of the insured's policy that one might experience, and more specifically, in a particular area of the state that your company might find higher losses per policy? Do you track -- can you offer any information on the data that you track with respect to the losses under different sections of the policy, or would you say that the losses are uniformly higher on all sections of the policy in those parts of the state? Specifically I'm talking about bodily injury, property damage, and comprehensive.

MR. LaMONICA: We vary our rates for each of those coverages by territory in almost every state, and we have-- Our rates that we charge are on file with every insurance department, and we could easily give you information to show you the degree to which our rates vary by territory, by coverage, within any state.

ASSEMBLYMAN DiGAETANO: That really doesn't get to my question. I mean-- I'll state it in a different way. In a particular community, where you -- or an area of a community -- where your company experiences high losses per policy, do you track those losses according to the portions of the policy? The reason why I ask that is because it would seem to me that while you might have higher losses in a particularly urban area, your bodily injury losses per policy might differ from your property damage losses per policy or your comprehensive losses per policy, and what could this Committee expect to be reflected in the rates should this Committee take your suggestion and eliminate the territorial rate gap?

MR. LaMONICA: We do treat each coverage separately. We track each coverage separately, and we track each coverage to the degree to which it varies from territory to territory. So we would look at a particular territory and track its bodily injury costs relative to bodily injury costs in every other territory. To the degree that there are differences, we reflect that in the rates. We do the same thing for property damage.

So we're not trying to subsidize one coverage with another coverage. We're trying to let each coverage stand on its own and each territory stand on its own -- and again, being a reflection of what it costs us to do business in that particular territory.

SPEAKER COLLINS: Thank you.

Ms. Woodard, we haven't forgotten. Continue on, please.

MS. WOODARD: Thank you. We were talking about the reluctance to serve an urban market and rates becoming less attractive for customers. For those companies who are in the urban market, the fact of the matter is that rates do become less attractive to customers of that company in suburban and rural areas. We have to charge customers in those areas a subsidy to make up for the artificially suppressed rate in urban areas. And the greater the suppression, the greater the subsidy. This has really turned into a significant penalty for companies such as Allstate.

The flip side of these subsidies also means that consumers who do reside in urban areas are paying more than they should, because they're helping to pay for someone else's insurance, in fact, about 75 percent of the drivers who are paying these subsidies, which essentially serves as a tax averaging about \$160 for the typical policyholder with two cars.

The real victims of subsidies are urban consumers, because insurance is less available to them as a result of all these things. If we are ever going to truly reform the New Jersey automobile insurance system, we must finally repeal this last remaining part of the failed JUA system. We should also force insurers to redefine territories to recognize that some areas within urban markets present lower risks than other areas. To fully serve the entire market, including the cities, insurers must be able to charge an adequate rate, should not be penalized for serving urban consumers like we are today, and consumers outside of the capped territories should not be forced to pay a tax on their insurance bill.

We also suggest that the take-all-comers law be repealed, or at least revised, so that insurers are required to provide only the mandatory level of coverage to eligible risks. And then companies can compete for coverages beyond those mandatory levels. Doing so might also help mitigate this barrier to urban availability.

Take all comers also facilitates fraud. Those who seek to perpetuate fraud are guaranteed access to the system through take all comers. We'd like to see that law revised, as well.

Of course, let me emphasize, reform must be comprehensive. So you cannot simply repeal the 1983 subsidies and take all comers alone. To the contrary--

Was that--

SPEAKER COLLINS: Assemblyman-- Senator Singer-- Well, that guy over there. Go ahead. (laughter)

SENATOR ADLER: You're welcome to call me John, absolutely.

I guess I'm troubled. You keep repeating, "The barrier to urban availability." But I think Mr. Collins made it very clear in his eloquent testimony that one of the biggest barriers to urban availability is the conscious decision of most carriers to fire agents that are writing urban policies, to pull agents and agencies out of urban areas, and to deprive urban drivers of the opportunity to buy insurance. So I think that should be a footnote in your testimony throughout, so it's not that the only urban barrier is that insurance costs a lot of money.

I think Assemblyman Charles pointed out very eloquently, much earlier this morning, that our responsibility is to find a way to bring down cost for all drivers in the state but not to spike costs for urban drivers by lifting caps and having two New Jerseys -- one New Jersey for suburbanites and rural people with slightly lower rates, and another New Jersey where insurance is unaffordable, and we get Senator Codey's prediction coming true, where people rationally choose not to buy insurance.

And I don't want your testimony to go without the composite, including the fact that there are carriers with a specific policy -- and Allstate's not one of those carriers, so please don't take offense on behalf of the company--

MS. WOODARD: Well, I think we're talking about that force being active in the marketplace for the reasons as we view them, and that certainly doesn't negate anything that you're adding as a footnote.

One of the things that I think happens often in people speaking -- we get into speaking about it's urban versus suburban, it's rural versus the city, and somehow, in the notion, the urban area is monolithic and it's all bad,

that it is not, in fact, a marketplace that is dynamic and fluid and has great opportunity for companies to compete and to make money. And when companies don't come to that voluntarily -- don't come to that realization voluntarily -- then I think it's important to offer incentives, if possible, and certainly, if not possible to offer incentives, to deal with the consequences of not serving the marketplace.

So that, for me, I guess, is a given in the remarks that I'm making.

SENATOR ADLER: Okay.

MS. WOODARD: But when we-- You know, when we-- If we were to talk about unbundling rating territories, everybody who lives in a city is not disadvantaged by that. Some people in the city are, in fact, advantaged, because they probably, perhaps more than anyone, bear the costs of being treated as the same risk as those drivers whose driving environment is very different from what theirs is.

SENATOR ADLER: I hear what you're saying, but I guess I fear that the elimination of the rating territories and the cap that exists currently would, in fact, create the two New Jerseys, would create an urban market where it's grossly unaffordable, even worse than it already is for all drivers in New Jersey currently. I don't think that's the direction we want to go, where we have a rising number of uninsureds, which ultimately cost the whole system money through that component of our premiums.

So I guess I'm having trouble squaring the notion of urban availability with urban affordability under the idea of lifting the caps, unless we do other things in addition to that, some of which you're talking about, certainly.

MR. COLLINS: And we are, indeed. If I may just, first of all, correct the record, Senator Adler. I did not say that companies in New Jersey are violating the law. I did not say that companies are firing agents to violate the law. There is no law in New Jersey that requires companies to be everywhere.

An insured has to apply for insurance in order for a company to be in violation -- and deny that applicant -- to be in violation of the law. I didn't suggest that that was happening. What I suggested was that not all companies are ever present in the state, and many companies have decided not to serve certain marketplaces, including urban marketplaces. So I wanted to correct the record, that I did not state that some companies are violating the law.

SENATOR ADLER: I'll give you credit for the inference, though, okay?

MR. COLLINS: Okay.

SPEAKER COLLINS: If I may, Assemblywoman Farragher.

ASSEMBLYWOMAN FARRAGHER: I just want to continue along the lines of Senator Adler's comment, if that's all right, Mr. Speaker.

SPEAKER COLLINS: Surely.

ASSEMBLYWOMAN FARRAGHER: Senator Adler, you're right, in that doing those two things alone won't solve the problem. If you only--

Let's talk about the cap that New Jersey companies -- that domestic New Jersey companies that are here-- They tend to get more of the business because they're here in New Jersey. Where we run into problems is with independent agents who have contracts with several companies not

necessarily domiciled in New Jersey, and those agents in the urban areas, if the company sees too much urban business coming in because of the rate suppression in those territories, many times they're canceling contracts. That's not against the law. They probably found very good and valid reasons to cancel the contracts. They'll look at their whole book of business. They'll look at claims experience in their book of business, and they can legally find ways to terminate those agents.

What we do need to do is a comprehensive thing, so that instead of having, say, 10 companies handling all the urban business in New Jersey, what I spoke of a couple of weeks ago was, like, getting more of the P and C companies that are writing around here -- around the United States -- to come into New Jersey, so that instead of having 10 companies taking all the risk, that risk can be spread among 100 companies. That's when you would have the competition and the rates go down.

But it's comprehensive. It wouldn't involve just removing the rate caps. We'd have to do the other things that we spoke about earlier today about the barriers to exit, which prevent companies from even coming here. When we look back, the history of how we funded the JUA and the MTF debt, you can understand why companies don't want -- didn't want to increase their book of business, because their assessment on those debts was based on their market share. So you had companies looking for every which way to reduce their book of business. Certainly not the agents. They don't make money on a reduced book of business. They work on commissions.

So to fully address the entire problem, it's many-- Many, many more pieces have to be done than just removing the rate caps, and if we have

the courage to do all of those pieces, everyone is going to be better off in the end, in my opinion.

MR. COLLINS: Assemblywoman, we totally agree. That is, in fact-- Maybe you did read our written plan. I appreciate those comments, because, in fact, that is the basis for comprehensive reform. And a key part of comprehensive reform is, of course, the cost containment piece, that is, not just addressing availability, but also addressing the affordability. I think Rhonda can spend a couple of minutes talking about the urban affordability part of this equation.

ASSEMBLYMAN DiGAETANO: Does anyone else on the Committee have a question, before Ms. Woodard continues? (no response)

MS. WOODARD: We must also address the fact that insurance is already too expensive, and consumers have no real choice in the way government forces them to buy. We've talked about two ways to reduce costs already, but dealing with fraud, abuse, and overutilization in the system is absolutely critical. Measures to fix the current arbitration system, adopting a better medical fee schedule, and tightening the verbal threshold would all help reduce costs. It's particularly important for urban consumers, your constituents, and our customers who are being victimized by the highest level of fraud, abuse, and overutilization in today's system.

We also need to provide more choices throughout the state. We suggest that insurance consumers be permitted to decide for themselves how much and what type of coverage to buy. For example, we suggest that consumers be permitted to purchase personal injury protection in increments down to \$5000, as is the case in Pennsylvania. We also suggest that you make

uninsured motorist and property damage liability coverages optional. Making those choices available would give your constituents the opportunity to reduce their insurance bills by about 30 percent.

Making insurance more affordable will also help address the uninsured motorist challenge by making it possible for more drivers to buy insurance. Faced with the requirement that they buy today's mandatory coverage, the most expensive in the country, they may decide not to. Providing choices to buy a more affordable package of coverages will encourage more to comply with the law.

With these reforms, we think it's reasonable to require all insurers in the State to fully serve the market, including the urban market. That's why we support the Urban Enterprise Zone Program. As part of that Program, we think insurers should be required to compete in all areas of the state. Any insurer that does not have or maintain a market share in urban territories, which is reasonably proportionate to its statewide market share, should be required, as part of the UEZ Program, to file a plan with the Commissioner of Banking and Insurance to increase its market share to a level that is reasonably proportionate.

We also support, as I had talked about before, a consumers' insurance information database to enable consumers to secure comparative information on rates, locations, and service features that are offered by companies, and to enable consumers efficiently and easily to secure coverage from companies of their choosing. Insurers would be obligated to provide information to the database and be required to make insurance available consistent with their marketing practices in all areas of the state.

Urban markets will always present unique challenges. However, we are meeting those challenges throughout the country. What's clear about New Jersey is that until we address the political subsidies and the take-all-comers law, the market will continue to be dysfunctional.

I welcome any additional questions that you have for any of us.

ASSEMBLYMAN DiGAETANO: Assemblyman Doria.

ASSEMBLYMAN DORIA: I have a question. Based upon your presentation of being able to buy down to \$5000 of personal injury protection or not having personal property damage or not having liability, why bother having insurance?

MS. WOODARD: We're talking about the mandatory purchases of those coverages. I think that, with the opportunity to access information either through an agent or on a telephone line to whoever, that a customer, a consumer of insurance, can determine for themselves what coverages best suit their needs.

ASSEMBLYMAN DORIA: You honestly believe that?

MS. WOODARD: Yes.

ASSEMBLYMAN DORIA: You honestly believe that-- You spoke earlier about people always looking for the lowest price, based upon what they can afford. You honestly believe that most people would, if given the choice between a policy that costs \$200 and a policy that costs \$500, purchase the \$500 policy?

MS. WOODARD: I believe that people, given information, will make the right choices for themselves.

ASSEMBLYMAN DORIA: Let us just say--

MS. WOODARD: That they can make an informed decision about what they need to protect themselves and protect their families. That's what I'm saying.

ASSEMBLYMAN DORIA: I don't disagree that they can make an informed decision. The question is, can they afford an informed decision? Making the decision is one thing. Affording a decision is another. And my question is, if we go down on the personal injury protection to \$5000-- We have in New Jersey a million citizens who don't have health insurance. If one of those million citizens who don't have health insurance get involved in an accident that costs \$5000 -- more than \$5000 -- who's going to pay for it?

MR. COLLINS: One reaction to that is that it goes back to Senator Codey's question before. By providing the opportunity to buy a policy-- And maybe \$5000 isn't the right limit. That's tied to Pennsylvania, as an example. Maybe it's a higher level. But by affording the opportunity to a consumer to buy a policy with, say, \$5000 in PIP as opposed to \$250,000, you're more likely to have people buy that policy, because they simply can't afford paying the amount of money that's required to pay for \$250,000.

ASSEMBLYMAN DORIA: My question still is--

MR. COLLINS: So you may actually have less strain on health insurance, because you're going to have somebody with at least \$5000 in coverage.

ASSEMBLYMAN DORIA: My question still is, who's going to pay for the coverage beyond \$5000 for those million citizens of this state who don't have health insurance? The answer I can give you is, the State of New Jersey, because we have charity care and we cover everyone. Pennsylvania, I

don't know what Pennsylvania's laws are as it relates to hospital coverage, but I know what New Jersey's laws are: no one gets turned away from a hospital in New Jersey, as they do in other states. So that's my first question.

My second question is what you're saying, based upon your proposal, is that if you live -- depending upon the vagaries of geography, and geography in this state is also dependent upon your income and wealth -- what you're saying is poor people should have less coverage and wealthier people should have better coverage, and they should pay less and poor people should pay more. Is that what you're saying?

MS. WOODARD: I didn't say that.

ASSEMBLYMAN DORIA: Well, what you're saying is that if you live in the city, you should be eligible to buy a cheaper policy, and it will cost you more than if you're living in the suburbs, where you're going to be able to buy a much more comprehensive policy and it costs you less.

MS. WOODARD: I didn't say that either, Assemblyman.

ASSEMBLYMAN DORIA: It sounds like that.

MS. WOODARD: What we're really talking about is people having the opportunity to choose what they want to buy. There is no reform that we're talking about that is only directed at urban consumers. There are people all over the State of New Jersey, I suspect, who would like to buy less than \$250,000 worth of protection--

ASSEMBLYMAN DORIA: So those policies--

MS. WOODARD: --or might like to. I'm simply saying--

ASSEMBLYMAN DORIA: Maybe I misunderstood you. I apologize.

MS. WOODARD: I think you must have.

ASSEMBLYMAN DORIA: What you're saying, then, is that the cost of the policies will be the same, depending on the coverage, throughout the state. Is that what you're saying? Because you're saying they'll have the opportunity to buy the coverage, so I may have misunderstood, and I apologize.

MR. COLLINS: We're suggesting the options to buy, for example, personal injury protection at increments down to, for example, \$5000 should be made available to consumers throughout the state.

ASSEMBLYMAN DORIA: And that policy will cost the same throughout the state?

MR. COLLINS: No, because the costs to provide that coverage are not the same.

ASSEMBLYMAN DORIA: So you're saying it shouldn't -- it shouldn't cost the same then, across the state?

MR. COLLINS: The price should reflect the risk, and that's the whole basis--

ASSEMBLYMAN DORIA: And where was the greater risk, as you see it?

MR. COLLINS: In redefining territories, there's no question that there are going to be areas that are in some of the current urban territories that are going to reflect high costs. Likewise, there may be areas in some of the territories today that encompass so-called suburban areas that are going to carry similar high costs, so it's not an accurate statement to say that all urban consumers will be in high-cost territories.

ASSEMBLYMAN DORIA: Well, could you give us -- maybe, Mr. Chairman, through you -- it would be helpful if you can give us what your projections would be, since you've done this in other states, what the cost would be in the various areas in New Jersey, so when we develop a piece of legislation, we could have that before us so we know what impact it will have on our citizens. So if you can give that beforehand, that would be very helpful.

MR. COLLINS: We'd be glad to work with your staff to figure out the best manner in which to provide that information.

ASSEMBLYMAN DORIA: That would be very helpful, I think, so that we can see, if it does fall just in one part of the state or one area of the state, because if it-- You know, if there seems to be some equity, it might be worthwhile. But to me it sounds as if -- the way it's been presented -- it sounds like one area is going to suffer and another area is going to benefit.

MR. COLLINS: Yes, and let's be clear that that's not the case. That's not what we're proposing, and I will pursue, with your staff, a response to that in more detail.

ASSEMBLYMAN DORIA: To work with the Committee staff.

ASSEMBLYMAN DiGAETANO: I think it would be-- I think the suggestion is great, Joe.

The argument here really centers around what is perceived to be a battle between urban and suburban policyholders. And having listened to the testimony, and interestingly enough, having read the testimony in advance of Mayor Bollwage, it appears that what you're saying is exactly on point, and that is, the current territories are inappropriately penalizing some policyholders. And I suspect that that may be in urban areas, as well.

So if you could get to this Committee your analysis of the current territories and the caps associated therewith and address the inequities in the current system, I think it might be very influential on members of this Committee when they ultimately debate whether or not to deal with the territories and the rate caps by way of changing or eliminating.

MR. COLLINS: We will do that.

ASSEMBLYMAN DiGAETANO: Anything else? Any other questions of this panel? (no response)

Thank you very much.

The Speaker is back, and just in time to adjourn the meeting, but--

SPEAKER COLLINS: Now, now, I've been listening.

I heard the Majority Leader ask, are there any other questions here? (no response)

You mustn't have done the job that I anticipated, then, Mr. Collins, though I heard some of that. Let me just ask one question that's somewhat in a personal vein, but over a long period of time, having discussions with so many people involved in automobile insurance-- Months back, you may remember -- I'm sure you remember -- that we had a discussion about some changes that would affect cost, whether it was PIP coverage, in this case, or removing the cap in urban areas. And I was privy to some information, some numbers, that you had given me, and my question is this--

What they were, were numbers that dealt with different PIP levels, which I had asked for information, and then, of course, the removal of the cap. And let me just hypothetically put forth some numbers that if the cap were to be removed and there be some reduction in PIP coverage in this, I was given

numbers based on all of the different territories, which I was particularly impressed with your statements of, "Hey, they're 30-some years old, almost 40 years old. Why don't we look at all of them?" But right now, these were territories you had given me, and I'm sure you remember, Mr. Collins.

There were specific reductions in the cost, let's say 25 percent -- not guaranteed, but 25 percent. When I looked at those numbers at a 25 percent reduction in whatever scale we play, is that 25 percent on the average policy, which, let's say is \$1000 -- would be \$250? Or is that on the PIP portion or whatever? And I could have asked you this privately, but I wanted to do it publicly.

MR. COLLINS: Michael can help me with this. The exhibits that we provided you that reflected different scenarios, different coverage options, for example, provided a statewide average reduction. We also provided you some comparisons, so that would be the statewide average reduction from the statewide average premium, which is, in round numbers, \$1000. We also provided you in those exhibits reductions in a comparison of today's minimum mandatory policy, which is about \$640, with some of those scenarios, and those percentages were reflected there, too.

SPEAKER COLLINS: So I am correct in saying that if I looked on that sheet and saw, in Monmouth County, for example -- whatever that territory is, let's say it's territory 11 -- and the PIP coverage was such and such, the urban cap was removed -- just those two things -- and I saw a reduction of 15 percent, that would be -- again, not holding you to any of this -- but on the average, statewide, that someone in Monmouth County would save \$150? In Salem County it might have been \$300; in Hudson County, \$700.

I think that's what it did say. (laughter) And in Passaic County, you pay the driver, the way I saw it. (laughter)

MR. COLLINS: The answer is, yes, if the consumer purchased that particular coverage scenario we laid out. So in that scenario, if they purchased the \$20,000 in PIP and 15/30 in bodily injury coverage, yes, their savings would have been the number reflected on those exhibits.

SPEAKER COLLINS: Off the \$1000.

MR. COLLINS: Correct.

SPEAKER COLLINS: And that's something that I'm sure we'll discuss in more detail and maybe, hopefully, have you available if we want to go in that direction or any other direction we'll be going.

MR. COLLINS: Absolutely.

SPEAKER COLLINS: Let me just say this, and not at the expense of other testifiers, but I know that you came a great distance, and we very much appreciate it -- your statements today and very much your potential availability as we get more specific in the weeks to come. Thank you all very much.

MR. COLLINS: Thank you.

MR. LaMONICA: Thank you.

SPEAKER COLLINS: Let me just say this to members of the Committee. Our next Committee meeting is next Monday the 9. We have some gentlemen -- and they truly are gentlemen -- who will come back and testify at that time, and we thank you for that, and then others.

And there is a distinct possibility, in fact, really a probability, if not a guarantee, that we will have at least one more public meeting after that.

We thank you all for coming today. The next meeting is Monday the 9. Thank you.

(MEETING CONCLUDED)