

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA

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:
PUBLIC HEARINGS -- CATASTROPHIC :
LOSS TRUST FUND :
:
Special Sub-Committee, :
Transportation Committee :
:
Hearing :
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Kehr College Union
Bloomsburg State College
Bloomsburg, Pennsylvania

Wednesday, September 11, 1985

Met, pursuant to notice, at 10:40 a.m.

BEFORE:

- REPRESENTATIVE TED STUBAN, Chairman
- REPRESENTATIVE VICTOR LESCOVITZ
- REPRESENTATIVE WILLIAM LLOYD
- REPRESENTATIVE EDWARD LUCYK
- REPRESENTATIVE THOMAS MURPHY
- REPRESENTATIVE MERLE PHILLIPS
- REPRESENTATIVE GREG SNYDER
- REPRESENTATIVE MICHAEL VEON
- REPRESENTATIVE BENJAMIN WILSON

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1 ALSO PRESENT:

2 SCOTT CASPER, Executive Director
House Transportation Committee

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4 PAUL LANDIS, Minority Executive Director
House Transportation Committee

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P R O C E E D I N G S

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2 CHAIRMAN STUBAN: I guess as we get going here, there
3 will be a lot more of our Representatives here. I'm sure there
4 are others coming. And the problem we are having is there is
5 a lot of conflicts, a lot of other meetings taking place
6 throughout the state. I know I was scheduled to have three
7 others besides this one. I serve on other committees.

8 I would also like to say that on behalf of the
9 Chairman of our Committee, Amos Hutchinson, Amos called me
10 this morning and Amos is down with the gout so he wouldn't be
11 able to be here, so I guess I'm in charge of the meeting.

12 And the meeting is brought about due to a House
13 Resolution, House Resolution 108, that was testified in the
14 past in the House of Representatives. And it was concerning
15 some of the problems and the complaints that we were having
16 on collection of the Catastrophic Fund.

17 And the House of Representatives felt that they ought
18 to empower somebody to investigate it. So what happened,
19 through a resolution introduced by Bernard Dombrowski from
20 Erie, Pennsylvania, and co-sponsored by many of the Represen-
21 tatives in the House of Representatives, the Transportation
22 Committee was given the authority to call some meetings.

23 And I want to thank the Committee, on behalf of the
24 Committee for giving me the opportunity to have the first
25 hearing at Bloomsburg University. And I want to apologize for

1 the new president of our university who was here for a few
2 minutes, Mr. Ausprich. Mr. Ausprich didn't have the chance to
3 stay here and open the meeting for us because he is scheduled
4 to be in Harrisburg and on to Philadelphia, but I would like
5 to ask his righthand man, John Walker, maybe to say a few
6 words on behalf of the university.

7 MR. WALKER: As always, we are very pleased that you
8 have chosen to have your hearing on campus, and hope you will
9 come back again when the need arises.

10 The university is attempting to serve the needs of this
11 part of Pennsylvania, and we believe, in terms of our current
12 status, we are prepared to do that.

13 Representative Stuban and his colleagues have been
14 very supportive of the university over the years. For that
15 we extend our appreciation and indicate that any time we can
16 help, please call on us.

17 CHAIRMAN STUBAN: Thank you, John, and thanks for the
18 hospitality. I know that the fellows appreciate it, and
19 since Ben Wilson flew in to -- what is that? The Bloomsburg
20 International?

21 REPRESENTATIVE WILSON: Bloomsburg International
22 Airport, fine facility.

23 CHAIRMAN STUBAN: Bloomsburg University provided taxi
24 service up to the college. I know he is impressed.

25 REPRESENTATIVE WILSON: Let me tell you, Representative

1 I am very impressed with Bloomsburg. I told the gentleman
2 that brought me up here, I haven't been on campus in 30 years,
3 but I was born and raised not far from here. And you have
4 come a long way and it's beautiful, it's beautiful.

5 CHAIRMAN STUBAN: I will start to the left and tell
6 each member to introduce themselves.

7 REPRESENTATIVE WILSON: I'm Ben Wilson, member of the
8 House.

9 REPRESENTATIVE PHILLIPS: Merle Phillips, member of
10 the House.

11 MR. CASPER: Scott Casper, Executive Director of
12 the House Transportation Committee.

13 REPRESENTATIVE LUCYK: Representative Ed Lucyk. I
14 represent Schuylkill and part of Columbia.

15 MR. LANDIS: Paul Landis, Representative Dininni's
16 office, Minority Chairman.

17 CHAIRMAN STUBAN: Since we are running a little late,
18 I think we better just get on with the meeting here. And our
19 first person to be called will be Bernie Kirschner. Bernie's
20 Executive Director of the House Insurance Committee and, Bernie,
21 I appreciate you taking over here and giving us your statement.
22 Whereupon,

23 BERNARD KIRSCHNER
24 having been called as a witness, testified as follows:

25 MR. KIRSCHNER: Thank you, Mr. Chairman, and gentlemen.

1 I'm Bernard Kirschner. As you know, I am Executive Director
2 of the House Insurance Committee. And I have been asked to
3 discuss the legislative history and the development of the
4 Catastrophic Loss Trust Fund, which is a section of the Motor
5 Vehicle Financial Responsibility Law of 1984.

6 For some of you, this is a refresher; and for some,
7 perhaps an historical insight into the CAT Fund. I hope my
8 comments will serve as the framework and an understanding of
9 the events that created the Catastrophic Loss Trust Fund. And
10 I will also try to provide you with some summary of its
11 provisions.

12 The Motor Vehicle Financial Responsibility Law was
13 shaped through an evolutionary process. And the Catastrophic
14 Loss Trust Fund is no exception to that process. The new
15 Automobile Insurance Law was created after many drafting
16 and redrafting sessions.

17 It was not until the final draft of the legislation,
18 in early December of 1983, that the Catastrophic Loss Trust
19 Fund had been added to the bill. The CAT Fund section was
20 inserted after the House Insurance Committee held hearings
21 in November of '83, and was made aware of the problems
22 associated with the catastrophically injured. Subchapter F
23 of the law, the Catastrophic Loss Trust Fund, would replace
24 the no-fault unlimited benefits that exist under the old no-
25 fault law.

1 Senate Bill 942, Print No. 1593, is the bill that was
2 reported out of the Committee on December the 12th, 1983. I
3 would like to try to describe the Catastrophic Loss Trust
4 Fund section in its original form as it appeared in Printer's
5 No. 1593.

6 A Catastrophic Loss Trust Fund is established to pay
7 catastrophic loss benefits. A catastrophic loss is defined
8 as an automobile-related injury in which the expenses for
9 medical and rehabilitation treatment exceed the sum of
10 \$100,000.

11 The fund will pay catastrophic loss benefits to
12 eligible claimants in excess of \$100,000, up to a maximum
13 payment for each eligible claimant of a million dollars;
14 however, limited to \$50,000 per year. And that was one million
15 dollars for a lifetime. The Catastrophic Loss Fund benefits
16 are primary to any benefits except Workers' Compensation.

17 Section 1762 described the funding mechanism. The
18 CAT Fund is funded by levying an initial charge of \$5.00 on
19 all registered motor vehicles, except those that are listed
20 as exempt. They were recreational vehicles not intended for
21 highway use, trailers, motorcycles, motor-driven cycles and
22 motorized pedacycles.

23 In this version of the bill, it read that the charge
24 is separate from and in addition to the registration fee,
25 and is to be remitted at the same time as payment of the

1 registration fee. It also stipulated that there shall be no
2 change in the fund charge for three years after the effective
3 date of the act, which was October the 1st, 1984.

4 The bill also established an enforcement section
5 directing the Department of Transportation to refuse regis-
6 tration, renewal or transfer of registration to any owner of
7 a motor vehicle, for which registration is required, until the
8 amount of the \$5.00 fund charge had been paid. A motor
9 vehicle owner who does not pay that \$5.00 would also be
10 ineligible to receive benefits from the CAT Fund.

11 Senate Bill 942 described an eligible claimant as a
12 resident of Pennsylvania who suffers a catastrophic automobile-
13 related injury on or after October the 1st, 1984.

14 An ineligible claimant is a motor vehicle owner who
15 has not complied with the registration requirements, which
16 means the motor vehicle owner had not paid the \$5.00 fund
17 charge, or complied with the financial responsibility require-
18 ments, which means either carrying insurance or to prove
19 financial responsibility by self-insurance, and is injured
20 while driving or occupying that vehicle. Or a person who is
21 either the driver or occupant of that excluded set of
22 vehicles not paying the \$5.00 fund charge, which is motor-
23 cycles, motor-driven cycles and so forth.

24 Section 1764 was a discussion about the Catastrophic
25 Loss Trust Fund. The fund is composed of money received from

1 the \$5.00 levy on motor vehicle registrations, and from funds
2 earned by investments or reinvestments of those funds.

3 The fund is held in a trust, deposited in a separate
4 account, and is the exclusive source of funding for the
5 catastrophic benefits. Disclaimers showed that the CAT Fund
6 is not to be considered part of the general fund or the Motor
7 License fund, and no claims against the fund would be considered
8 a debt of the Commonwealth.

9 Section 1765 created a CAT Fund Board to supervise
10 the Fund. The Board was to be composed of nine members. The
11 Insurance Commissioner is the Chairman. Four members are
12 appointed from the General Assembly, and four members were
13 appointed by the General Assembly. The term of appointment
14 was two years.

15 The CAT Fund Board would hire an Executive Director
16 to carry out the mandates of the Board. And among other
17 functions would be responsible for establishing a publicity
18 program to the residents of the Commonwealth regarding the
19 fund, the coverages and the presentation of claims.

20 The Executive Director would also receive claims for
21 catastrophic loss benefits and forward them to a claims
22 administrator with whom the Board has contracted. This
23 administrator determines eligible claimants and establishes
24 a mechanism for prompt payment of benefits.

25 The administrator also evaluates the medical, medical

1 treatment, care and rehabilitation services provided for each
2 eligible claimant to insure the most prudent expenditure of
3 funds.

4 The Board also had the authority to contract with a
5 manager to invest and reinvest the money in the Catastrophic
6 Loss Trust Fund. Once a year the Board would consult with the
7 administrator, manager and an actuary to develop fund charges
8 to determine whether they would be more or less or the same.

9 The administrator of the CAT Fund can also enter into
10 structured settlements with claimants to pay benefits when
11 such settlements would be cost effective to the Fund and in
12 the best interests of the claimant.

13 Section 1767 provides for an annual report submitted
14 by the Insurance Department to the Governor and the General
15 Assembly regarding the status and the activities of the CAT
16 Fund.

17 There was a section devoted to appeals so that a person
18 disputing eligibility for benefits may request the Insurance
19 Commissioner to review the administrative decision.

20 Finally, the Catastrophic Loss Trust Fund is subject
21 to evaluation, review and termination under the Sunset Act
22 every six years; the first review, of course, would be
23 December the 31st, 1990, which is six years after its conception.

24 That, Mr. Chairman, and members of the Committee, is
25 how Senate Bill 942 looked when it was reported from the

1 Insurance Committee on December the 12th, 1983. The next
2 day the bill was called up on the House floor, debated for
3 two days, amended five times; three of those amendments
4 affected the CAT Fund.

5 The first amendment, No. A4630, clearly states that
6 the catastrophic loss benefits are not to duplicate any other
7 payments for medical and rehabilitative services. You will
8 also remember that one of the problems with no-fault was
9 the double-dipping. That amendment passed the House by a
10 vote of 185 to 13.

11 The second amendment clarified the maximum catastrophic
12 loss benefits to be paid to any one eligible claimant. You
13 will remember, as I just stated, the original language stated
14 that the maximum benefit is \$50,000 per year and one million
15 dollars in a lifetime, which is the aggregate.

16 The amendment would allow the flexibility by removing
17 the \$50,000 annual restriction for the first calendar year.
18 The reason for that is that the information we were getting was
19 that the costs of rehabilitation and medical expenses were
20 much greater the first year than they would be for the ensuing
21 years. That amendment passed the House unanimously with a
22 vote of 199 to zero.

23 And finally, Amendment No. 4652, the Dawida Amendment,
24 changes the funding mechanism for the Catastrophic Loss Trust
25 Fund. You will remember, I just stated that a \$5.00 charge was

1 to be levied on all registered motor vehicles except for that
2 exempt group. The charge was to be remitted at the same time
3 as the payment of the registration fee.

4 Since the bill was silent about who collected that
5 charge or that fee, the language inferred that PennDOT would
6 be the billing agency. This amendment required that the \$5.00
7 charge be remitted to the insurance company at the same time
8 as the payment of the insurance premium.

9 The insurance company, upon receipt of the charge,
10 forwards the charge to the Insurance Department for deposit
11 in a trust fund. This amendment passed by a vote of 158 to
12 39.

13 The amended version of Senate Bill 942, which now
14 has the print of 1619, passed the House by a vote of 144 to
15 56; sent to the Senate. They concurred by a vote of 33 to 14,
16 and forwarded it to the Governor for signature.

17 The Governor refused to sign the bill until some of
18 his objections were addressed. This was accomplished by
19 amending Senate Bill 300 in a conference committee. During
20 the automobile insurance debate, Senate Bill 300 was referred
21 to as the trailer bill, the companion bill to Senate Bill 942.

22 In Senate Bill 942, the composition of the Board,
23 as I stated earlier, was to consist of four legislative members
24 and four public members, all appointed by the Legislature
25 with the Insurance Commissioner as the Chairman. Senate Bill

1 300 gave the Governor, rather than the Legislature, the
2 authority to appoint the four public members. In effect, that
3 gave the Governor control of the Board.

4 The conference committee report also changed the
5 Catastrophic Loss Trust Fund Board from an independent Board
6 to a departmental administrative Board in the Insurance
7 Department.

8 Senate Bill 300 also eliminates the restriction on
9 changing the fund charge for three years. The initial charge
10 will remain at \$5.00.

11 The conference committee report provides for the
12 Insurance Department to determine a formula to reimburse the
13 expenses of the insurance companies, or any others, connected
14 with the collection of the fund charge.

15 Finally, the trailer bill changed the language in
16 the collection process. You will remember the Dawida Amendment
17 of Senate Bill 942 provided for the charge to be remitted to
18 the insurance company at the same time as the payment of the
19 premium. The new language in the trailer bill says that the
20 charge shall be remitted to an insurance company, or other
21 party, as may be designated by the Insurance Department.

22 That essentially, Mr. Chairman, gentlemen, is the
23 legislative history of the CAT Fund section of the Motor
24 Vehicle Responsibility law. Thank you.

25 CHAIRMAN STUBAN: Thank you, Bernie. I guess there

1 will be some questions, but before we ask some questions,
2 there are two Representatives that arrived. On my left,
3 introduce yourself.

4 REPRESENTATIVE MURPHY: Representative Thomas Murphy.

5 CHAIRMAN STUBAN: Allegheny County, and to my right?

6 REPRESENTATIVE SNYDER: Representative Greg Snyder,
7 York County.

8 CHAIRMAN STUBAN: Anybody got any questions? Go
9 ahead.

10 REPRESENTATIVE MURPHY: Bernie, isn't it true the
11 legislative intent of this, with the Dawida Amendment and
12 comments made on the House floor by both the Majority-
13 Minority leader, was that the CAT Fund should remain within
14 the insurance industry, and should not in any way be connected
15 to the registration fee?

16 MR. KIRSCHNER: Yes, that was the intent of the
17 Dawida Amendment. And it was also followed by a resolution
18 that was adopted, the Manderino Resolution, which proved the
19 intent of the House that the CAT Fund fees should be collected
20 by the insurance companies.

21 REPRESENTATIVE MURPHY: Isn't that intent being
22 completely thwarted right now by this independent agency and,
23 in fact, the \$5.00 fee is tied to your registration?

24 MR. KIRSCHNER: Yes, Representative Murphy, but it
25 was changed in the new law in that the Senate Bill 300 stated

1 specifically that the Insurance Commissioner could appoint
2 someone other than the insurance companies to collect the
3 money.

4 REPRESENTATIVE MURPHY: Bernie, it may be helpful
5 for the Committee to address, at least from my perspective
6 having been on the Insurance Committee over the last seven
7 years, to know that the insurance industry had been trying
8 frantically to get rid of the catastrophic portion of the
9 medical benefits. And it seems to me they finally succeeded
10 in shifting that burden to the Commonwealth.

11 Do you want to address the history of how they have
12 been trying to do that? They tried to do it for over seven
13 years, I guess, in the sense -- do you remember the hearings
14 we had where we explored what it would cost if we put a
15 medical limit of a hundred thousand dollars on medical benefits
16 under the old no-fault system, which the insurance industry
17 indicated an individual would save in his premium?

18 MR. KIRSCHNER: I remember the testimony, Representative
19 Murphy, but I don't remember the figures.

20 REPRESENTATIVE MURPHY: The premium savings, for the
21 Committee's interest, was \$3.00 annually, and it seemed to
22 me that what we have done is absorbed the most risky portion
23 of the insurance industry's liability and let them off the hook,
24 and that is my impression after what was done. Is that yours
25 also?

1 MR. KIRSCHNER: I believe that the insurance industry
2 is off the hook; that the risk that the industry presently has
3 is much less than it was under the old no-fault law, which
4 was probably the reason that the rates were increasing as fast
5 as they were.

6 REPRESENTATIVE MURPHY: Bernie, what happens with an
7 individual who has more than a million dollars in medical
8 expenses, which is not uncommon in a catastrophic - - -

9 MR. KIRSCHNER: No, it's not uncommon and it has to
10 come out of the out-of-pocket, or they have other insurance
11 in excess of a million dollars.

12 REPRESENTATIVE MURPHY: Do you know if the insurance
13 industry is providing that money?

14 MR. KIRSCHNER: I know of no policy or anything that
15 has been offered in excess of that. The insurance industry
16 will follow me sometime today, and I believe they are better
17 qualified to answer that question.

18 REPRESENTATIVE MURPHY: Thank you.

19 MR. LANDIS: May I follow up on that? Over the million
20 dollars, Bernie, I believe the General Assembly passed the
21 bill where it added the \$10.00 fee for moving violations. I
22 think 20 percent of that is for trauma victims, that fund,
23 when they upgraded the ambulance services.

24 MR. KIRSCHNER: It wasn't in our Committee and - - -

25 REPRESENTATIVE WILSON: That was \$10.00.

1 MR. KIRSCHNER: I remember reading in the paper, and
2 I'm not really familiar with the legislation.

3 MR. LANDIS: Twenty percent of that \$10.00 fee goes
4 to a trauma fund and, according to our Executive Director of
5 the Insurance Committee on Tuesday, that is available if
6 people have exhausted all other - - -

7 REPRESENTATIVE WILSON: I believe that we were a little
8 bit lax in that legislation, because it really doesn't describe
9 where and how it's to be spent, particularly in that area.
10 That is another day, another subject, but I think that is a
11 problem.

12 MR. LANDIS: Actually we have two funds that can get
13 involved in trauma.

14 CHAIRMAN STUBAN: I think that is another thing that
15 the Legislature is going to have to look at.

16 REPRESENTATIVE WILSON: Pretty soon; you are right.

17 CHAIRMAN STUBAN: We adopted that and we created
18 another catastrophic fund there that comes up with some money,
19 and how we are going to address that situation, I don't
20 really -- we hadn't decided how to address that with people
21 that have gone over.

22 Anybody else? Representative Wilson?

23 REPRESENTATIVE WILSON: Yes. Bernie, I think your
24 presentation is very good. It's a good synopsis of how this
25 thing came about.

1 MR. KIRSCHNER: Thank you.

2 REPRESENTATIVE WILSON: A couple questions I have.
3 And you mentioned the original no-fault legislation we created
4 a decade ago was unlimited medical benefits.

5 MR. KIRSCHNER: That's correct.

6 REPRESENTATIVE WILSON: This particular substitution,
7 as you alluded to the CAT Fund as being a substitution for
8 the catastrophic benefits that were available prior -- what
9 happens between \$10,000 and a hundred thousand dollar claim?
10 What was the intent of the Legislature or the insurance
11 companies or the trial lawyers, or whoever was involved in this
12 thing, that they have left a blank in there?

13 And as I understand from the injuries, the average
14 claim is, say, 30 to \$50,000, and we have a blank in there.
15 What happens to the people, in your mind?

16 MR. KIRSCHNER: The language that was used in the
17 discussion was freedom of choice. The original version of the
18 bill had no mandatory first-party coverage at all. The
19 Governor's office insisted that there be some first-party
20 coverage, and finally it was decided that the mandatory portion
21 would be \$10,000.

22 At this point, there is a \$90,000 blank. The automobile
23 insurance is primary. Anything over and above that, people
24 do have a right and the opportunity to buy a hundred thousand
25 dollars' worth of first-party coverage from their insurance

1 company on their automobile insurance.

2 Those people who elect not to, conceivably would have
3 it paid for by their employer-paid Blue Cross-Blue Shield,
4 or any other medical.

5 REPRESENTATIVE MURPHY: Or if they even did have --
6 if that is not available to them, would a retiree, for
7 example, have this? And he takes out the 10,000, he or she
8 takes out the 10,000, no medical or Medicare?

9 MR. KIRSCHNER: Medicare would pick up the 90,000.

10 REPRESENTATIVE WILSON: What, in your expertise,
11 is the estimated cost to the CAT Fund for claims in an actuarial
12 position? Is \$5.00 a sound figure?

13 MR. KIRSCHNER: When the figures were presented to the
14 Committee originally, they estimated that there were some
15 six million to be covered by this fund. Five dollars each
16 would give the fund 30 million dollars, and the actuaries,
17 with whom we had contact, indicated that this would be sufficient.

18 However, there are some changes since the original
19 discussions that took place, and that is there is some 75 cents
20 out of the \$5.00 that now goes to a collection agency to
21 collect this money, which represents about 15 percent.

22 So if the actuarial figure were, in fact, correct,
23 there is the possibility that there will be a 15 percent
24 deficit in the overall picture.

25 REPRESENTATIVE WILSON: Do you have, somewhere in your

1 archives, your files, any letters or any testimony from
2 actuarial sources that give evidence to that fact?

3 MR. KIRSCHNER: Yes, sir; we have testimony.

4 REPRESENTATIVE WILSON: Could you share that with this
5 Committee at some future date?

6 MR. KIRSCHNER: Yes, sir.

7 REPRESENTATIVE WILSON: Or when the Chairman gets
8 around?

9 MR. KIRSCHNER: Yes.

10 REPRESENTATIVE WILSON: I think it would be interesting
11 to see just where we are going. I think part of our appre-
12 hension is five bucks is a bargain, 20 bucks is not. I think
13 that is part of the problem.

14 As a result of that no-fault bill, we now have less
15 mandatory coverage in the automobile insurance field; is that
16 correct?

17 MR. KIRSCHNER: Yes, sir.

18 REPRESENTATIVE WILSON: And in your evidence, did
19 the rates go down?

20 MR. KIRSCHNER: The rates did not go down. The
21 latest rates were increased.

22 REPRESENTATIVE WILSON: So we really got less for more
23 with the \$90,000 gap?

24 MR. KIRSCHNER: Mr. Wilson, the Insurance Committee
25 is presently holding hearings across the state on the cost of

1 liability insurance. We are hearing the truckers, who are not
2 subject to the controls of the Insurance Commissioner, are
3 paying as much as 500, 600 percent increase for their liability
4 insurance this year over last year.

5 We have learned that the nurse-midwives have had their
6 insurance cut out completely. And just about every area,
7 including local governments, the cost is becoming prohibitive.

8 The insurance premium on automobiles is up, on the
9 average, about 15 to 20 percent. That is the information that
10 we are getting back, so I cannot blame that on the change in
11 the law for the increase, or the fact that an insurance premium,
12 just automobile insurance premiums, are not lower.

13 REPRESENTATIVE WILSON: I didn't infer that the law
14 was the fault. My question was that the coverage mandated by
15 the law this year versus last year, or versus the other no-fault
16 legislation we had in effect, is in fact mandating less
17 coverage, which most people will take whatever they are told
18 by law they have to take, is less coverage for the same or a
19 higher price?

20 MR. KIRSCHNER: Yes, sir.

21 REPRESENTATIVE WILSON: You are suggesting it's 15
22 percent higher in price for less?

23 MR. KIRSCHNER: Premiums higher for less.

24 REPRESENTATIVE WILSON: Thank you. That is all I
25 have, Mr. Chairman.

1 CHAIRMAN STUBAN: Would you introduce yourself?

2 I don't think you did earlier.

3 REPRESENTATIVE LLOYD: Representative Lloyd.

4 CHAIRMAN STUBAN: You got a question?

5 REPRESENTATIVE LLOYD: Yes. Mr. Kirschner, I would
6 say that there has been no issue, in my five years in the
7 Legislature, which has brought me more mail, more phone calls
8 and more disgruntled visits from consumers than the \$5.00
9 Catastrophic Loss Fund.

10 I would estimate that in the last month to six weeks,
11 upwards of 90 percent of the contacts that my office has had
12 with constituents are people who are either confused or ex-
13 tremely unhappy about this fund. And the objections seem to
14 go in two different categories.

15 One, there is an objection to being required to have
16 insurance on your own person. People say why should the
17 government interfere with that?

18 The second objection is that well, even if we should
19 have mandatory insurance, we should change the way that it's
20 collected and administered.

21 I would like to try to get some background information
22 from you on those two points, so that I know what to respond
23 to constituents and so that I can, in my own mind, decide
24 whether we should simply repeal this thing outright, or whether
25 we should try to change it and make it work.

1 Why did the Insurance Committee feel, or why do you
2 feel at this point, that first-party coverage should be man-
3 dated for catastrophic situations? What is the advantage to
4 the consumer in doing that?

5 MR. KIRSCHNER: I can give you one example. A member
6 who is sitting here has a constituent who was catastrophically
7 injured, who indicated to him, and again to me when I spoke
8 with her, that, "I thought I was wasting my \$5.00 when I paid
9 that. I'm certainly glad I did." She, at this point, has
10 \$175,000 worth of medical expenses.

11 REPRESENTATIVE LLOYD: Well, I guess maybe I didn't
12 make my question very clear. A choice -- and this Committee
13 has already given approval to a bill which would repeal the
14 \$5.00 CAT Fund, and which would say to consumers, "If you want
15 to buy catastrophic coverage, that is up to you." Just as
16 many other things in life we leave up to the individual; we
17 don't play Big Brother.

18 What would be wrong with saying to individuals, "If
19 you want to make the choice" -- we are saying to them, "If
20 you want to at least take the risk of having no insurance
21 between \$10,000 and a hundred thousand dollars, that is a
22 risk we think you ought to be allowed to take." What is wrong
23 with saying to those same people, "We think you ought to be
24 allowed to take the risk of not having any insurance at all
25 over \$10,000?"

1 MR. KIRSCHNER: The cost would be one thing. The
2 numbers that we have been hearing in the Insurance Committee,
3 the lowest price that we have heard, that if it's written by
4 an individual insurance company on an optional basis, it would
5 be \$30 per year. The highest cost that we have heard is 130
6 per year for the same coverage at \$5.00.

7 It is my understanding that there would be represen-
8 tatives of the insurance industry testifying later today who,
9 I believe, are more qualified to answer that question.

10 REPRESENTATIVE LLOYD: So that basically the principle
11 is that if we make everybody participate in the fund, because
12 we can spread the risk and we get a lot of people paying in
13 who will never collect, that we can give this at a lower price;
14 is that correct?

15 MR. KIRSCHNER: Precisely.

16 REPRESENTATIVE LLOYD: Is that the argument?

17 MR. KIRSCHNER: Yes, that's the argument.

18 REPRESENTATIVE LLOYD: Okay. Now, the next question
19 is what would happen if instead of collecting it the way we
20 do now, we were simply to say let's collect it as a separate
21 line item on our insurance premiums; that there is a line
22 that says "Catastrophic Loss Fund, \$5.00," or whatever it is.

23 Now, I realize that a significant number of people
24 break the law and don't have insurance, and we would lose
25 them because now, if they want to get their license renewed,

1 they have got to pay into the fund. And I assume that the
2 result would be that now there are fewer people in the pool
3 and they may have some upward pressure on the price.

4 However, I have a hypothesis, and I'm not sure that
5 I could prove it, but the hypothesis is that disproportionately,
6 the people who don't buy insurance are people who are bad
7 risks, and keeping them out of the pool may also have a downward
8 pressure on the cost of the fund.

9 What do you think would be the impact if we were to
10 say we want the insurance companies to collect this from those
11 people who have insurance? Those people who don't have
12 insurance, don't pay the \$5.00, they are in violation of
13 state law, they don't pay the \$5.00 but they also don't collect
14 anything out of the fund.

15 MR. KIRSCHNER: Well, the Committee really felt that
16 the fund would be completely underfunded if that had happened.
17 It's not only the owner and driver of the automobile who is
18 covered. It is also the passengers.

19 If I were a passenger in an automobile that was not
20 covered, or where the owner had not contributed and was in
21 violation of the law, and the owner of the car was not eligible
22 to receive benefits from the Catastrophic Loss Fund, I, as
23 his passenger, would be because I did not. So therefore, we
24 could be cutting that section of population out of this
25 particular type of coverage.

1 Also we had testimony, and I believe that the
2 witnesses following me will again be more qualified to answer
3 this, testimony that the cost to the insurance companies by
4 trying to match their tapes with PennDOT tapes and the con-
5 fusion that would then ensue - - -

6 REPRESENTATIVE LLOYD: No, you are missing my point.
7 I'm not suggesting that this match their tapes with PennDOT
8 tapes. I'm suggesting that those people who buy insurance --
9 we require them to buy \$10,000 worth of coverage themselves;
10 that they also be required to buy coverage from a hundred
11 thousand dollars to a million dollars, and that shows up on
12 their insurance premium, and so therefore, the people who get
13 billed are the people who get a normal insurance premium bill.

14 So there is no -- the matching and so forth that should
15 be done to enforce the law. That leaves that issue aside, and
16 you said that the fund would be underfunded. It wouldn't be
17 underfunded if you set the price at the right level. Do you
18 have any idea what, rather than \$5.00, what you would have to
19 charge if the insurance companies collected this money on
20 their own?

21 MR. KIRSCHNER: No. Well, as I said before, if it
22 became a voluntary thing, the numbers that we had were some-
23 where between 30 and a hundred and thirty. I do not know
24 what it would cost if -- the estimate that we have is that
25 there is about a million to a million two hundred thousand

1 uninsured motorists, which means we would be short some five
2 to six million dollars in the CAT Fund.

3 I really do not know what the cost would be to the
4 consumer if the insurance companies had to put that on.

5 One of the arguments that was presented, at the time
6 we were talking about the insurance companies collecting, is
7 that they would also have to pay their agents commissions,
8 15 percent, so that was one of the costs that they had.

9 REPRESENTATIVE LLOYD: One of those things is
10 feasible. I think if we wanted to, by legislation, if the
11 objection is they didn't pay the agency, I guess we want to
12 fight with the insurance agency, fight with them. Just I
13 intend to pursue those questions with the insurance agency.

14 But it seems to me that there are two alternatives:
15 either we get rid of this thing, because that is what the
16 public wants; they are sick and tired of it. They are fed up
17 with it. It's been horribly administered.

18 I wish that the people who were running this program
19 would go on television, would explain to the public how this
20 thing works, why it's there; the same kind of representation
21 I heard you give on my local radio station, which I think
22 explained it well, so that people, at least when they look
23 at it or not understand it, and this hasn't happened. And
24 my suspicion is that the reason why it hasn't happened is
25 because the insurance industry, and the people who are running

1 this fund, feel that this \$5.00 perhaps is a way to take the
2 heat off the fact that insurance premiums didn't go down
3 when freedom of choice became the law.

4 And I think that what they have done is take \$5.00,
5 which is probably a bargain for people, and used that to
6 divert attention from what is a much more serious thing that
7 we ought to be paying attention to and we are not. And I
8 think that we are going to pursue that issue with the insurance
9 industry. I intend to do that.

10 CHAIRMAN STUBAN: Representative Wilson would like
11 to follow up.

12 REPRESENTATIVE WILSON: Just one follow-up for Bernie.
13 You said that the concern that the insurance companies had
14 in administering this, as part of this premium, the \$5.00,
15 that they would have to pay a 15 percent - - -

16 MR. KIRSCHNER: Commission.

17 REPRESENTATIVE WILSON: - - - commission. We are
18 paying 15 to 18 percent just to mail it out. I mean, it kind
19 of offsets itself. I guess nobody thought of that. .

20 MR. KIRSCHNER: When it was first discussed about the
21 insurance companies collecting this, I don't think that we
22 had thought about the 15 percent collection fee that we have,
23 or 15 percent collection fee that we have now.

24 REPRESENTATIVE WILSON: Thank you. That is all.

25 CHAIRMAN STUBAN: Thanks. Before I go to the next

1 questioner, we have a Representative that just entered here.

2 Do you want to introduce yourself?

3 REPRESENTATIVE VEON: Representative Mike Veon from
4 Beaver Falls, 14th District.

5 CHAIRMAN STUBAN: Representative Snyder?

6 REPRESENTATIVE SNYDER: Mr. Kirschner, I didn't hear
7 all your testimony. I quickly tried to look over it, and since
8 I also serve on the Insurance Committee, and of course we have
9 been having a series of hearings on this, I wonder if you
10 would be willing to give us a summary of just how the admin-
11 istrative process that we now have for the CAT Fund came about.

12 There was a series of lawsuits and some other admin-
13 istrative and bureaucratic goings on that contributed to what
14 I think is the major problem, at least among the consumers,
15 and that is the confusion.

16 Would you mind summarizing that for the Committee,
17 please?

18 MR. KIRSCHNER: Yes. To the best of my recollection,
19 the Insurance Department promulgated rules and regulations
20 that would mandate that this \$5.00 fee be collected by the
21 insurance industry, attached to the insurance policy.

22 The regulations were presented to the Independent
23 Regulatory Review Commission, who rejected the regulation.
24 To the best of my knowledge, there were three revisions and
25 three times rejected by the Independent Regulatory Review

1 Commission.

2 And as I remember the reason, it was not in the
3 public's interests.

4 Subsequently, a class-action suit was started -- no,
5 I beg your pardon. The Governor exercised his authority and
6 overruled the refusal of the Independent Regulatory Review
7 Commission to reject this, and said that the collection system
8 will go into effect immediately.

9 At that point, a class-action suit was started against
10 the administration, and finally a settlement was -- an out-of-
11 court settlement was reached with the approval of the court
12 that created this system that we presently have.

13 REPRESENTATIVE SNYDER: So I think what you are
14 saying, and I'm not trying to put words in your mouth, but
15 that also is basically my recollection; that there were at
16 least three or four different attempts to indeed have the
17 insurance industry, in one fashion or another, collect the
18 fee, which was obviously the legislative intent at the time
19 the proposal was enacted. Would you agree with that?

20 MR. KIRSCHNER: Yes, I would agree with that.

21 REPRESENTATIVE SNYDER: And it was as a result of
22 this litigation and eventually an out-of-court settlement
23 that now we have the wonderful administrative system that
24 we now have; is that right?

25 MR. KIRSCHNER: I hope you are being sarcastic.

1 REPRESENTATIVE SNYDER: I am. I couldn't find a
2 parking space, which is why I am late.

3 MR. CASPER: The invitation said parking behind the
4 building.

5 REPRESENTATIVE SNYDER: Excuse me, I don't think
6 there was any left when I got here.

7 MR. CASPER: All right, fine. Then you are covered.

8 REPRESENTATIVE SNYDER: Now, on to another topic,
9 very briefly. The charge itself, the amount of the charge,
10 \$5.00 per year per vehicle registration, how long is that
11 going to remain \$5.00?

12 MR. KIRSCHNER: For the balance of this year at
13 least.

14 REPRESENTATIVE SNYDER: And when will the decision
15 as to whether it goes up or goes down be made?

16 MR. KIRSCHNER: The CAT Fund Board meets on January
17 the 1st each year.

18 REPRESENTATIVE SNYDER: Now, will they then have to
19 set the fee for the ensuing year at the time that they meet?

20 MR. KIRSCHNER: Yes, yes. The fee for the coming
21 year is established the first of January each year.

22 REPRESENTATIVE SNYDER: What is that going to do for
23 people whose automobile registrations expire between the time
24 that they meet and perhaps make this decision in the time
25 that the administrative process goes into effect? What fee

1 are they going to pay for that year?

2 MR. KIRSCHNER: I don't know if it's going to be
3 retroactive to January 1st, or whether the Board -- I am not
4 privy to Board discussions -- or whether the Board will decide
5 that sometime in the future, the lead time -- that the fees
6 will have to go up.

7 REPRESENTATIVE SNYDER: No further questions.

8 CHAIRMAN STUBAN: Representative Lucyk?

9 REPRESENTATIVE LUCYK: Following up on several of
10 the questions that were asked here, and I would like to
11 reflect on Representative Snyder's comments, that the legis-
12 lative intent, as I feel, has been completely changed in this
13 whole bill. And I think I reflect the feelings of a lot of
14 people that had we known that this was going to happen with
15 the bill as a whole, and especially with the Catastrophic
16 Loss Fund, we wouldn't have voted for it. I know I personally
17 wouldn't.

18 My problem is, Bernie, number one, why -- or can this
19 be changed to require legislative approval for a fee increase?
20 If we have got to live with the \$5.00, we will live with the
21 \$5.00, but can we amend this bill to say that before this
22 agency, or whatever is controlling this thing, right, cannot
23 increase the fee; it requires legislative approval, or is
24 this bill now completely out of our hands?

25 MR. KIRSCHNER: The original version of the bill, as

1 I testified earlier, had a three-year restriction that the
2 fee cannot be raised for three years. The Governor's amendment,
3 Senate Bill 300, which was the result of the objections of
4 the Governor, removed that restriction so that the CAT Fund
5 Board can now increase it each year if they so desire.

6 REPRESENTATIVE LUCYK: Can this bill be amended now?
7 Can we amend it to change it again?

8 MR. KIRSCHNER: Of course you can amend it. You can
9 repeal it.

10 REPRESENTATIVE LUCYK: Why did we have two billings?
11 Why '84 and '85 when the bill became effective in October of
12 '84, which charged the people a whole \$5.00 for '84, and then
13 we followed up a few months later with another charge for
14 '85?

15 That is another thing that has people riled up. They
16 were only covered for three months or one-fourth of the year,
17 and we charged them the \$5.00, and I don't see that anywhere
18 in the bill.

19 MR. KIRSCHNER: The Governor signed the bill in March
20 of '84 with a six-month lead time to become effective on
21 October the 1st. The fee was due -- the CAT Fund fee was
22 due August the 1st, 1984, for one year thereafter by all
23 registered motor vehicles.

24 Because of the lawsuits and the confusion around who
25 was going to collect this, the contracts were not signed and

1 the system put in place until, I believe, it was July -- it
2 may have been May. I think it was closer to May of 1985.

3 So those bills that went out, whenever it was -- June,
4 I beg your pardon -- those bills that went out in June of
5 1985 were for the 1985 year, from October the 1st, 1984
6 through September the 30th, 1985.

7 Subsequently, those registrations which were renewing
8 in September had again to pay for the period of October 1st,
9 1985, through September 30, 1986. So therefore, if you got
10 your bill in June and you paid it, and your registration was
11 due again in September, come July you get another bill,
12 because they wanted enough lead time to buy your sticker,
13 put it on your application and send it back to PennDOT.

14 That is the reason that some people, one-twelfth of
15 the people, I would presume, got their bills in July and
16 another twelfth will be getting theirs in August, and still
17 another twelfth will be getting them in September.

18 And up to this point, I agree with you that it has
19 not been publicized enough, and the people do not understand
20 it.

21 REPRESENTATIVE LUCYK: Why, we are just on a one fiscal
22 year for this thing, because if everybody is going under a
23 different year -- is that what you are telling me? Because,
24 you know, we get back to the fee. I don't want to argue
25 with you because I know you didn't do it. I am just asking for

1 an explanation.

2 But it seems to me what you are saying is to look down
3 the line for a fee increase. Which I know everybody has this
4 in their mind right now. And what Bill Lloyd said -- well,
5 everybody paid \$5.00 for 1984; that there wasn't any bills
6 or any payments logged against the Catastrophic Loss Fund
7 so that money -- how much money is in this fund right now?

8 MR. KIRSCHNER: I heard a number of 30 million dollars.
9 I don't know. I have never seen the figures. But the infor-
10 mation that I have been trying to pick up is there is some-
11 where around 30 million or somewhere between 28 and 30 million
12 dollars has already been collected.

13 I find it hard to believe because I know that a lot
14 of people haven't paid yet, and I know there is a lot of con-
15 fusion, and we all know that we are getting letters and there is
16 a lot of confusion there; not to prolong this because I know
17 we are limited on time.

18 I believe that the witnesses following me, I think that
19 the Executive Director of the CAT Fund Board will be here,
20 and he probably will tell you exactly how much money is in
21 as of today, and how many claims are in.

22 REPRESENTATIVE LUCYK: Not to prolong, as I said to
23 you, you are probably one of the most knowledgeable people
24 in this state on this fund, on the insurance laws. I said
25 to you before, when I was on the Insurance Committee, that

1 nobody understood the original no-fault law; nobody in the
2 Legislature, nobody understood this law. Nobody still under-
3 stands.

4 Could we have some kind of recommendation from you?
5 And I'm talking about not just the Insurance Committee, not
6 just on the Transportation Committee, but members at large;
7 your recommendations on what should be done to improve this,
8 using your expertise and just about this billing agency,
9 about how it should be collected, what should be collected
10 so that we do get some idea on improvement on it. Would you,
11 or if you want to correspond with me directly on that, I
12 would appreciate that, or anyone else who would.

13 MR. KIRSCHNER: I could make a statement, Represen-
14 tative Lucyk. The law specifically gives the responsibility
15 of publicizing the fund to an individual, and the individual
16 is the Executive Director of the CAT Fund Board. And speci-
17 fically, the legislation states that he shall have a -- maintain
18 a public relations or publicity campaign.

19 The responsibility, of course, would have to lie with
20 somebody so that the public knows about it. And it appears
21 to me that the problem today is the fact that the public does
22 not understand it. And I think that you members have said
23 this repeatedly, that the letters you are getting is that the
24 public doesn't understand it, because when they do understand
25 it -- as Representative Lloyd said, I was interviewed by a

1 radio station in his district, and once it was made clear,
2 and I find the same thing is true with constituents who are
3 referred to me, that once I'm able to explain the purposes
4 of the CAT Fund, and how it works, that the constituents are
5 no longer upset for the most part.

6 So I think the whole thing boils down to the fact
7 now of public relations. And somewhere along the line, that
8 job has to be done.

9 The Chairman of the Insurance Committee did call upon
10 the Governor and asked him to go on television, as he did
11 with the PACE program, which was not understood. And once
12 it was understood, then people took advantage of it.

13 CHAIRMAN STUBAN: Any other questions? I guess you
14 fellows know that usually at hearings I really am outspoken
15 and take up a lot of time. Since you are in my territory,
16 I am - - -

17 REPRESENTATIVE WILSON: So you are going to quiet
18 down?

19 CHAIRMAN STUBAN: - - - trying to relax. I think that
20 is why Amos left me in the position, just to let you fellows
21 do the questions.

22 Bernie, we want to thank you for testifying here
23 today. And as a member of the House, I also would like to
24 thank you for the cooperation you have given us appearing on
25 Lloyd's radio station. I know you appeared on my radio station,

1 and you were so helpful trying to resolve some of the problems
2 we have. Thank you.

3 MR. KIRSCHNER: Thank you, Mr. Chairman.

4 CHAIRMAN STUBAN: Thank you for appearing.

5 MR. CASPER: In addition to that, Mr. Chairman,
6 Bernie has also lent of his time during his workdays to help
7 prepare these hearings, and that we are very appreciative
8 of that fact, and your Chairman wished to convey that to you,
9 Bernie, at this hearing.

10 CHAIRMAN STUBAN: Our next fellow to testify will
11 be Richard Sandusky. He is the Director of the Regulatory
12 Analysis of the House, the Independent Regulatory Review
13 Commission.

14 Whereupon,

15 RICHARD M. SANDUSKY

16 having been called as a witness, testified as follows:

17 MR. SANDUSKY: Thank you, Representative. What I am
18 handing out is a copy of the four orders of the Independent
19 Regulatory Review Commission. What I would like to do today
20 for the Committee is to give a brief overview from when the
21 Insurance Department's first proposed set of regulations
22 came to us to our final action, which was approval of a set
23 of regulations that were modeled on the settlement that was
24 eventually reached.

25 Bernie gave you an excellent overview of the long and

1 tortuous journey that the Son of No-Fault went through in
2 becoming law. Once it passed the Legislature and the Governor,
3 the Insurance Department did sit down, developed a set of
4 regulations, and submitted those regulations to us in August
5 of 1984.

6 At the August 16th public meeting of the Independent
7 Regulatory Review Commission, the Commission voted to
8 disapprove the proposed set of regulations. There were a
9 number of reasons which are outlined in detail in the order
10 dated August 16th in the pack that has been handed out to you.

11 But let me highlight a couple of the chief concerns
12 that arose in the Commissioners' minds.

13 First of all, we were very cognizant that the Senate
14 Banking and Insurance Committee had recommended that we dis-
15 approve the regulations by a six to one vote in its meeting.
16 And that the House Insurance Committee, by a 13 to four vote,
17 had recommended that the proposed regulations be disapproved.
18 There was a great deal of controversy over who should collect
19 it.

20 We were very cognizant of the fact that there was
21 and still is a great deal of difference of opinion among leg-
22 islators, in both the House and in the Senate, as to whether
23 or not insurance companies, a third-party or PennDOT, should
24 be collecting the funds. We had to deal with the law as it
25 was passed now as a whole in trying to develop it as best we

1 could.

2 Some of the problems that we had were the proposed
3 system with that based on the numbers that PennDOT had developed,
4 and upon the information submitted to us by the insurance
5 industry, that there would be a very high or large expense
6 associated with the collection of the fee if the insurance
7 companies did it.

8 We were also very much concerned that under the pro-
9 posed system in the law, in Section 1763, it's very clear.
10 It states the Department of Transportation shall refuse regis-
11 tration or renewal or transfer to the owner or owners of any
12 motor vehicle for which registration is required under this
13 subchapter until there is proof that the amount levied under
14 this subchapter was paid.

15 The initial set of proposed regulations would have
16 established an enforcement system, which would have allowed
17 an individual to obtain a registration renewal or new regis-
18 tration, and PennDOT would not be aware that they had not paid
19 the CAT Fund fee, and would not commence enforcement for
20 a period of up to 18 months after the fact.

21 In other words, the longest time period -- it could
22 have been 18 months between the time an individual got a
23 registration and PennDOT finally got out there to take the
24 plate back.

25 The Commission was also very concerned that because

1 of the expense that would be generated by having the insurance
2 companies collect the fee, that the fee would not stay at the
3 \$5.00 figure. It would be forced to be raised because of the
4 high collection costs involved.

5 We were also very much concerned because, under the
6 initial set of regulations, individuals would have ended up
7 paying the CAT Fund fee more than once a year in certain cir-
8 cumstances; if they changed insurance companies for example,
9 if a registration was transferred, and we did not feel that that
10 was the intent of the Legislature. Therefore, the Commission
11 did disapprove the first set of regulations.

12 On September 4th, we received a second submission from
13 the Insurance Department. The system proposed therein was
14 very much similar to the intial one. They had made some
15 technical corrections on issues that were not physically
16 directly related to the CAT Fund.

17 There were three other chapters in the regulations
18 which the Commission did not have serious problems with. How-
19 ever, because the system was essentially the same, for the
20 same reasons as stated in its first order, the Commission
21 disapproved the second submission.

22 At this point, on September 7th, one day after our
23 second disapproval, the Commonwealth Court took its first of
24 a number of actions. The suit that Bernie mentioned was in
25 fact filed prior to the decision of our second order, and

1 Judge Crumlish ordered PennDOT to begin collecting the fee.
2 He took notice of the fact that there were less than 30 days
3 until the effective date of it, being, i.e., October 1.

4 Because there was not a system in place to begin the
5 collections, he ordered PennDOT to gear up to start doing it.

6 On September 12, Judge Crumlish held a hearing. On
7 September 21st, the Insurance Department came back to us
8 with a third revision. This revision was modified somewhat.
9 It contained the first seeds of a stamp plan, so to speak.

10 Again though, the insurance companies would be the
11 ones who would be selling the stamps. And one point that I
12 should point out, that was in large part one of the major
13 stumbling blocks in all of the proposals, is that under this
14 third proposal, you still did not have a system which would
15 give you the enforcement mechanism that the Commission felt
16 1763 required. That is, up-front enforcement. PennDOT was
17 not to issue a registration unless there is proof that the
18 CAT Fund fee had been paid.

19 As a result, on September 26th, for the third time,
20 the Commission disapproved the proposed regulations that were
21 submitted to it from the Insurance Department. At that meeting,
22 the Governor's director of his Regulatory Review Task Force,
23 Mr. Peppy (phonetic spelling), delivered to the Commission at
24 the meeting an emergency certification signed by the Governor
25 which, under the provisions of the Regulatory Review Act,

1 allowed the Governor to put the regulations that had been sub-
2 mitted to us virtually in effect for a period not to exceed
3 120 days.

4 On that same day, Judge Crumlish voided the Governor's
5 emergency certification and issued an order again ordering
6 PennDOT to begin collections.

7 On October 4th, the Supreme Court sustained the bulk
8 of Judge Crumlish's order, but did defer the collection. Be-
9 tween the end of September and the beginning of January, the
10 Insurance Department and the insurance industry were locked
11 in negotiations working with the courts and each other to
12 develop a solution.

13 On January 3rd, the Independent Regulatory Review
14 Commission received a fourth submission which embodied the
15 principles of the stamp plan as you know it today, which was
16 a direct result of the settlement agreement that the Insurance
17 Department, PennDOT and the litigants, which included private
18 individuals and the insurance industry, which gave you the
19 program that is in force.

20 On January 17th, our Commission approved that version
21 of the regulations. While there were still some reservations
22 concerning the costs that would be involved in this collection
23 system, realizing that the effective date of the law had
24 already passed by over two months, and realizing that this
25 looked to be about the best set of regulations that would be

1 put into place in the near future, the Commission did give its
2 approval, and that concluded our participation in the process.

3 At this point, what I would do is offer myself for
4 any questions the members may have concerning the process and
5 its effects.

6 CHAIRMAN STUBAN: Representative Lloyd?

7 REPRESENTATIVE LLOYD: Thank you, Mr. Chairman.

8 A couple things I would like to get clear. Apparently
9 a major consideration of IRRC was that there had to be an
10 up-front enforcement mechanism for the CAT Fund. But is there
11 not also in the law a similar requirement that a registration
12 is not to be issued unless the person can prove that he has
13 met the other insurance mandates of the Commonwealth?

14 MR. SANDUSKY: In the other section of the law that
15 concerns financial responsibility, there is a requirement that
16 they must be able to show proof of financial responsibility.

17 REPRESENTATIVE LLOYD: Did IRRC say -- or what did
18 IRRC say about the method of enforcing that requirement?

19 MR. SANDUSKY: That is enforced by a self-certification
20 means on your registration. That is consistent in terms of
21 requiring some sort of proof. The enforcement, 1763, in
22 terms of its enforcement, spoke only in terms of proof that
23 the amount levied for the CAT Fund fee be paid.

24 1763 is in that chapter that deals just with the CAT
25 Fund.

1 REPRESENTATIVE LLOYD: The language which applies
2 to the coverage that I have to have up to \$10,000, and the
3 coverage that I have to have in terms of protecting the other
4 driver, the language is different, significantly different
5 from the language requiring me to have the \$5.00 in order to
6 get my registration renewed?

7 MR. SANDUSKY: Representative, I would have to go
8 back and look at the language to see if they are parallel or
9 if they are different.

10 REPRESENTATIVE LLOYD: Well, if they are parallel,
11 then I don't understand what the big deal was at IRRC, because
12 if they are parallel or even relatively parallel, it seems to
13 me that IRRC has not done anything to prevent, under the new
14 law, this self-certification process, which I suggest has
15 allowed a lot of people not to have insurance at all, just
16 as they did under the old law.

17 And in many ways, there is a much more serious en-
18 forcement problem, one which my constituents care a whole lot
19 more about, and that is the liability protection they are
20 getting from the other driver. And IRRC hasn't done anything
21 about that.

22 Everybody knows that PennDOT and the Insurance
23 Department do a lousy -- and the State Police and whoever is
24 supposed to be responsible, does a lousy job of enforcing when
25 somebody doesn't fulfill the mandatory insurance requirement.

1 But yet, over this \$5.00, a relatively small aspect
2 of the total insurance package, there was this great -- my
3 word, we can't let this happen until we have up-front
4 enforcement.

5 I don't understand where IRRC's priorities are. I
6 don't understand, unless the law is crystal clear, I don't
7 understand why IRRC stood up and said to the Governor, "No,
8 Governor, we won't let you do this the way you want to do it
9 and the way the Legislature wanted it done, because that
10 isn't what the pristine language of the law requires."

11 I don't understand that. I don't understand the
12 rationale, and I wish you would check the law. I don't have
13 a copy with me. I wish you would check the law and let us
14 take a look to see whether we agree that your double standard
15 is justified.

16 Now, the -- I'm sorry.

17 MR. SANDUSKY: I can check that for you over lunch.

18 I have a copy, got a copy of the law here.

19 REPRESENTATIVE LLOYD: I appreciate that.

20 MR. SANDUSKY: It's been a while. My memory was that
21 the law was different, but let me verify that.

22 REPRESENTATIVE LLOYD: Second question is: You
23 mentioned, with regard to collection costs, that if the
24 insurance companies did the collecting, that you were under
25 the impresssion that there would be substantial additional costs.

1 Were you assuming that the insurance companies were going to
2 collect from everybody, including those people who don't
3 otherwise buy insurance?

4 MR. SANDUSKY: No. The collection cost figures
5 entailed from the insurance industry were strictly from their
6 policyholders.

7 REPRESENTATIVE LLOYD: Why would there be such a big
8 cost? I mean, why is it a problem when everybody on their
9 policy, there has got to be another line which says "\$5.00,
10 Catastrophic Loss Fund"? Where is the additional collection
11 costs?

12 MR. SANDUSKY: The collection costs, and perhaps I
13 used the word too broadly, the collection costs per se involved
14 with bringing the \$5.00 into the insurance company would
15 involve simply reformatting their forms, which is something
16 that does cost them money, but is something that they periodi-
17 cally do anyway.

18 REPRESENTATIVE LLOYD: Something they would have had
19 to have done to implement the rest of the new insurance law;
20 isn't it?

21 MR. SANDUSKY: I think you can ask the insurance
22 people that.

23 REPRESENTATIVE LLOYD: I think the answer to this
24 is yes.

25 MR. SANDUSKY: But you are probably right. There would

1 have possibly been some expense involved in terms of what
2 they would have had to pay agents to collect this money.

3 REPRESENTATIVE LLOYD: And this is something the
4 companies have told the Legislature and asked us to exempt
5 them, and we could have decided whether we wanted to do that
6 or not.

7 MR. SANDUSKY: Correct. And from that point then,
8 there was the reporting cost involved, what each company
9 would have to do after they collected the money. They would
10 have to prepare a list of individual policy numbers and submit
11 that.

12 Number one, they would have to submit the money and
13 a list to the CAT Fund; and number two, they would have to
14 submit a list to PennDOT for enforcement.

15 REPRESENTATIVE LLOYD: Aren't they supposed to do
16 that anyway with PennDOT? Aren't they supposed to provide
17 a list of who has insurance with them to PennDOT before we
18 had the CAT Fund?

19 MR. SANDUSKY: The insurance -- under the existing
20 law, insurance companies are required to report to PennDOT
21 individuals who cancel policies, not people who have them.

22 REPRESENTATIVE LLOYD: But not on the other side?

23 MR. SANDUSKY: PennDOT has made the decision by
24 regulation. That is the only reporting that they require the
25 insurance companies to do, is someone who has cancelled a

1 policy and who has had that policy for less than six months.

2 In other words, I can have insurance with a company
3 for seven months, cancel and the insurance companies are under
4 no obligation, under PennDOT's regulations, to notify PennDOT.

5 REPRESENTATIVE LLOYD: After seven months?

6 MR. SANDUSKY: After seven months. PennDOT's regu-
7 lations specifically state only six months. The statute has
8 no such short term in it. That may be an issue you may want
9 to - - -

10 REPRESENTATIVE LLOYD: What has IRRC done about that?
11 Your law allows you to intervene and go after regulations
12 which currently don't comply with the law, old regulations.

13 MR. SANDUSKY: Correct.

14 REPRESENTATIVE LLOYD: What have you done about that?

15 MR. SANDUSKY: We have done nothing on this particular
16 topic. That is one that if the Legislature is concerned with,
17 we would be more than happy to take a look at it and get back
18 to you with something on it.

19 REPRESENTATIVE LLOYD: Okay. Thank you.

20 CHAIRMAN STUBAN: Anybody else got any questions?

21 Representative Snyder.

22 REPRESENTATIVE SNYDER: If I hear what you are
23 saying correctly, you are saying that the present system we
24 now have in the collection of the CAT Fund is far from perfect
25 but, under all the circumstances, was the best that could be

1 done in IRRC's opinion; is that right?

2 MR. SANDUSKY: In our opinion, it was the best system
3 that we were going to have submitted to us for review.

4 REPRESENTATIVE SNYDER: In time to have it implemented;
5 is that correct?

6 MR. SANDUSKY: And in fact, it was after-the-fact
7 implementation when we did approve it.

8 REPRESENTATIVE SNYDER: Let's just assume for a
9 moment that the time constraints aren't there. I assume,
10 since I've seen you at at least one other hearing on this
11 subject, that you have given this particular subject some
12 thought. What are your thoughts, if you have any, on a
13 better way to administer this particular collection of the
14 CAT Fund fee?

15 MR. SANDUSKY: Okay, Representative, I'm going to
16 give you my personal opinion - - -

17 REPRESENTATIVE SNYDER: That is fine.

18 MR. SANDUSKY: - - - because then it's my head you
19 can chop off rather than the Commission, because I'm not sure
20 the Commissioners would agree with me on this.

21 After having gone through this long and arduous task,
22 and seeing the confusion that has resulted, in which I think
23 everybody perhaps can accept a little bit of the blame, my
24 personal opinion is that the citizens of the Commonwealth
25 are intelligent enough that if they had been given a decent

1 explanation, the fee could have been collected, and if you
2 want up-front enforcement along with the registration fee,
3 as was contained in the original bill. That is my personal
4 opinion.

5 If you are going to require the CAT Fund to be
6 collected from everyone, requiring it concurrent with regis-
7 tration is an excellent enforcement mechanism. And if you
8 only have one mailing, and I only have to write one check and
9 I don't have to hold things and wait for stickers, or hope
10 my kids don't get it, you know, tear it up before I can get
11 the registration, I feel that it should be part of the regis-
12 tration process.

13 You will notice I have conditioned that upon the
14 state deciding that they want everyone to participate.

15 REPRESENTATIVE SNYDER: Maybe I missed something.
16 At first I thought you were going to say as well, as we have
17 heard others say, the only problem is that nobody out there
18 knew what this was all about when the bills started being sent
19 out. Then I think I heard you say something about let's
20 just make it part of the registration fee.

21 Let me ask you what you did - - -

22 MR. SANDUSKY: Let me clarify that. Yes, I think
23 there could have been a much better job of public information
24 of the existing system. And your offices would not have been
25 deluged with the phone calls that they have been.

1 I would have to echo Bernie's comments that the phone
2 calls I've gotten from legislative staff people, and once we
3 have explained it to them and once they have gone back and
4 explained it to their constituents, the constituents think
5 \$5.00 for that type of coverage is reasonable. They are a
6 little confused about why they have to get it in a separate
7 bill and get the stamp and put on the registration and send
8 it in with the registration.

9 And you can imagine the hundred thousand or so in
10 the first wave who sent their registrations in and didn't
11 have the stickers on them and got them back were even more
12 confused.

13 My personal feeling is that a lot of money is being
14 wasted in postage with the separate mailings that could be
15 avoided if it was done concurrent with the mailing of the
16 registration renewal. I think you can explain to people,
17 through two different lines on a registration bill, one is
18 for the Motor Vehicle Fund, one is for CAT Fund insurance.

19 REPRESENTATIVE SNYDER: You think that would withstand
20 a constitutional challenge?

21 MR. SANDUSKY: I cannot see any reason why there would
22 be any constitutional challenge to that.

23 REPRESENTATIVE SNYDER: No further questions.

24 CHAIRMAN STUBAN: Anybody else? Any more -- go
25 ahead, Mr. Veon.

1 REPRESENTATIVE VEON: I'd like to follow up briefly
2 on Representative Lloyd's questions on collection. I still
3 don't understand why it was determined that it would be such
4 a tremendous task, and an expensive task, for the insurance
5 companies to collect this fee if, in fact, you said it would
6 be only their policyholders. And it would seem to me it
7 would be relatively simple to put another line item on a policy.

8 I don't understand how they were able to convince
9 the Commission that it would be such a burdensome thing for
10 a couple reasons: number one, my understanding of the whole
11 concept is they are some way directly benefiting from the fact
12 that they have now been capped for their liabilities, and a
13 separate fund is taking care of that.

14 And originally their promise was this will lower
15 rates and it hasn't meant lower rates. So I would like you
16 to again try to explain why it was seen as such a burden for
17 the insurance companies to collect this fee.

18 MR. SANDUSKY: Okay. The insurance companies would
19 have two burdens under the initial proposal. One is the
20 collection. There would be some one-time reprogramming costs
21 which you know, in the long run, would be fairly small if you
22 spread them out over a number of years, or if you tied it in
23 with a reconfiguration of policies.

24 There would be some costs in the fact that the agents
25 would have to collect this. They would have to make modifications

1 to their computer system to split off that \$5.00 so that it
2 would not be subject to premium tax and whatnot.

3 There was also, and perhaps even more expensive, was
4 the reporting requirement to PennDOT to get the enforcement
5 that was required. In other words, there must be proof of
6 payment for PennDOT to be issuing registrations.

7 What the regulations required was for every insurance
8 company to send a list to PennDOT of everyone who had paid
9 the CAT Fund fee with the vehicle registration numbers and
10 some other information. Not all insurance companies, in the
11 normal course of business, collected all of the information
12 that PennDOT required.

13 Furthermore, while there was a provision that could
14 be submitted on a computer tape, there were no specifications
15 for the companies. There was no assurance that their computer
16 system would be compatible with PennDOT.

17 For small insurance companies, they would end up
18 submitting handwritten lists, which PennDOT would then have to
19 keypunch and put into their computers so they could do the
20 enforcement that is required under 1763. Those were fairly
21 significant costs for this whole entire process.

22 REPRESENTATIVE VEON: Although they may be significant,
23 I guess I'm looking forward to speaking with the Executive
24 Director later on today to determine what kind of costs are
25 involved in this process we have now. It seems to me, just

1 from some things that I have read so far, there is a tremendous
2 amount of costs in this collection, in the banking check
3 charges with Mellon Bank, et cetera, et cetera, and I think
4 that once this all shakes out, that the insurance companies
5 will have walked away with it, from this with no blame, with
6 no responsibilities.

7 Yet the law was enacted partly at their initiative.
8 And obviously, they are benefiting from it, or they wouldn't
9 have been seeking the changes in the first place. Yet again,
10 they are going to walk away from it with no blame, no respon-
11 sibility, et cetera.

12 The other comment that I would like to make, or question
13 I would like to ask, and I'm not sure of this, but I had a
14 couple of people from a local union approach me saying that
15 in fact their coverage, their insurance coverage, covered them
16 up to one million dollars in case of an automobile accident.
17 And therefore, they are being charged the \$5.00 fee virtually
18 for nothing since they are already covered.

19 And has there been no attempt, or was there any
20 attempt ever to address that kind of a situation, to your
21 knowledge?

22 MR. SANDUSKY: One of the issues that did come up
23 during the deliberations, and it is a transitional problem,
24 was that people with existing no-fault policies, and not all --
25 the law did not void all existing insurance policies come

1 October 1, 1984. It allowed old policies to continue to run.

2 If you have had a no-fault policy, and let's assume
3 it was a 12-month policy -- although I understand the norm
4 now, and my personal policy, is a six-month -- it's conceivable
5 that in September of 1984, you could have renewed your policy
6 and you would have had no-fault benefits all the way through
7 September of '85, even though the law took effect October 1
8 of '84.

9 REPRESENTATIVE VEON: But - - -

10 MR. SANDUSKY: So perhaps that may be the situation.

11 REPRESENTATIVE VEON: So getting back to this point
12 where these folks came to me and said, "We have our policy,
13 our union package policy covers our liability up to one million
14 dollars," so in effect this CAT Fund wouldn't benefit them?

15 MR. SANDUSKY: Would be redundant as far as they are
16 concerned.

17 REPRESENTATIVE VEON: Right, exactly. So I wonder how
18 many people in the State of Pennsylvania, that that is the
19 same case. I don't know. Maybe sometime in the future we
20 might be able to get a figure on this, but there may be a
21 significant number of people that are covered under different
22 policies and, in fact, this fund that they had been paying,
23 could in fact be redundant.

24 MR. SANDUSKY: Um-hum.

25 REPRESENTATIVE VEON: I don't know if we could do that

1 at some point. Would that be a possibility?

2 MR. SANDUSKY: That is something that I think probably
3 the Insurance Commission, or perhaps the insurance industry,
4 both of whom have representatives who will be speaking here,
5 may be able to give you a better answer.

6 REPRESENTATIVE VEON: Okay, thank you. My last point
7 would be that you stated that if our constituents have an
8 opportunity to understand the law and what it's all about,
9 et cetera, and believe that \$5.00 is a reasonable fee and can
10 be reasonable about it; that may or may not be so.

11 I have some that are, some that are not. But I know
12 one thing I think they would be objectionable about, and
13 that is that they are going to continue to raise the fee.

14 In my opinion, I think it's been stated here before
15 and now, \$5.00 is reasonable right now and maybe we can be
16 out there selling \$5.00. I won't be out there selling it,
17 but perhaps the Governor will get on TV and sell the \$5.00 to
18 our constituents.

19 And I know a reason why he won't, because next year
20 it's going to go up, and the year after that it may go up
21 again. And what protection do we have that it doesn't rise
22 to \$40.00 a year, you know? Where does it stop? Whose
23 decision is that?

24 I think Representative Lucyk stated that perhaps there
25 ought to be some control, or at least some control by the

1 Legislature to determine what the fee would be. It just seems
2 to me to hand it to a Board to determine what the fee should
3 be year in and year out, we are asking for trouble.

4 And I would like -- I don't know what your responsi-
5 bility to the Commission would be along those lines, but I
6 did want to make that comment. Thank you, Mr. Chairman.

7 CHAIRMAN STUBAN: Representative Lucyk?

8 REPRESENTATIVE LUCYK: I am still trying to find out
9 why we paid in '84 and '85.

10 MR. SANDUSKY: I could give you a number of answers.
11 One of the problems is that, you know, your 1984 payment
12 doesn't cover calendar year '84, and that is another one of
13 the things that has confused the devil out of - - -

14 REPRESENTATIVE LUCYK: That is what Bernie said;
15 right?

16 MR. SANDUSKY: In other words, your 1984 payment gave
17 you coverage from October 1, '84 through September up until,
18 you know, the end of this month. All right, the billings
19 that are going out now are for CAT Fund year '85, which is
20 really October, '85 - - -

21 REPRESENTATIVE LUCYK: Fiscal year for the CAT Fund.

22 MR. SANDUSKY: - - - through September, '85.

23 REPRESENTATIVE LUCYK: The fiscal year for the CAT
24 Fund in effect is September - - -

25 MR. SANDUSKY: It's October 1 through September 30.

1 REPRESENTATIVE LUCYK: You are saying October, '84
2 to October, '85, and the people that are paying it in now
3 is for '85, from October, '85 through October, '86?

4 MR. SANDUSKY: September, '86.

5 REPRESENTATIVE LUCYK: '85 to '86.

6 MR. SANDUSKY: It's confusing.

7 CHAIRMAN STUBAN: Do you have a question, Representative
8 Murphy?

9 REPRESENTATIVE MURPHY: The clear legislative intent
10 of the CAT Fund, for those of you who voted for it, was not
11 to have it tied to the registration. The Dawida Amendment
12 said, the Majority-Minority leader said that, and yet you
13 ignored that. Why did you do that to the legislative intent?

14 MR. SANDUSKY: Representative, we did not ignore it.

15 REPRESENTATIVE MURPHY: The bottom line is that the
16 CAT Fund is tied to the registration, and the legislative
17 intent was clear that this should not be the case.

18 MR. SANDUSKY: The legislative intent, as we read it
19 from the Dawida Amendment, was that PennDOT was not to be
20 the collector, okay; that the insurance companies were to be
21 the collector. The final bill that passed had modified
22 language in it.

23 REPRESENTATIVE MURPHY: But the insurance companies
24 are not the collector of it. PennDOT, in fact, the Department
25 of Transportation, while using the third party, is in fact the

1 collector of it because they have to -- they control it through
2 the registration, and the clear legislative intent was not to
3 make that connection. That was in the original bill. It was
4 taken out. Everybody spoke to it; it was clear and you guys
5 simply ignored that.

6 MR. SANDUSKY: We did not ignore it, Representative.

7 REPRESENTATIVE MURPHY: You did. The results show
8 that you ignored it.

9 MR. SANDUSKY: In the final bill that went into effect,
10 the designation was not the insurance companies, it was not
11 PennDOT. It was delegated to the Insurance Commissioner who
12 chose either the insurance companies or another body, all right.

13 I understand your feeling, Representative Murphy,
14 and I know that the majority of the House, if you took a vote
15 today, would say we want the insurance companies to collect it.

16 REPRESENTATIVE MURPHY: I assure you the House will
17 be taking a vote on that this fall.

18 MR. SANDUSKY: I am sure. Our problem is we deal
19 with the Legislature as a body, and the body has two houses,
20 and the input that we received from the Senate was they would
21 just as soon prefer that PennDOT do the collection. You can
22 say we were kind of between a rock and a hard place, the
23 House and the Senate, in terms of desire.

24 What you ended up with is a compromise solution,
25 which does what either body had a specific - - -

1 REPRESENTATIVE MURPHY: It does. Who benefits from
2 this is the insurance industry, which philosophically really
3 bothers me, because what we have done is let them take the
4 cream and the ability of limiting their risk, and shifting
5 that risk ultimately to the Commonwealth, or to an administra-
6 tive agency of the Commonwealth. And they are able to --
7 they were able to limit that risk and not assume any respon-
8 sibility for collection and you supported that.

9 I mean your Regulatory Commission in fact set that
10 in motion for that to happen. Philosophically I am in dis-
11 agreement; that the insurance industry has gotten off scott
12 free in dealing with catastrophic injury.

13 MR. SANDUSKY: Representative, I would have to differ
14 with you that it was us who came up with the CAT Fund. We
15 had to deal with the final legislation that was passed.
16 Realizing that it was a very difficult piece of legislation,
17 there was still an awful lot of controversy surrounding it.
18 We have to deal with the laws as they were passed.

19 REPRESENTATIVE MURPHY: I appreciate that.

20 MR. SANDUSKY: I'm not -- personally speaking, I cannot
21 disagree with any of the statements you have just made. How-
22 ever, it is not the power of the Independent Regulatory Review
23 Commission to decide whether or not there should be a CAT Fund.
24 We just have to do the best we can with what we have got.

25 REPRESENTATIVE MURPHY: Thank you.

1 CHAIRMAN STUBAN: Are there any other questions? If
2 not, we would like to thank Richard for testifying, and we
3 appreciate your testimony.

4 MR. SANDUSKY: Is there any further questions or any-
5 thing? I intend to stay around for the whole day, and I will
6 be more than willing to discuss it in greater length with any
7 of the members.

8 CHAIRMAN STUBAN: Thank you for your cooperation.
9 We are going to do something a little different here that is
10 unusual, and the reason we are doing it is because there is
11 going to be a lot of questions directed, and we don't know
12 who to direct these questions to.

13 So what we are really going to do is call three
14 people forward: Paul Laskow is the Chief Counsel of the
15 Insurance Department; John Pachuta, who is the Director of
16 the Bureau of Motor Vehicles; and William Taylor, who is the
17 acting Executive Director of the Catastrophic Loss Fund.

18 And we would like all three of you people to come
19 forward.

20 Whereupon,

21 PAUL LASKOW and JOHN PACHUTA
22 having been called as witnesses, testified as follows:

23 MR. CASPER: I believe that what we are having in
24 effect, instead of -- I was under the assumption that Mr.
25 Laskow was representing Thomas Busby, who is Legislative Liaison.

1 Evidentially, Paul, you are representing Tom Busby as well as
2 Bill Taylor.

3 MR. LASKOW: That's correct.

4 MR. CASPER: Fine, okay; just to get that straight.

5 CHAIRMAN STUBAN: You can answer some of the questions,
6 I guess, that we will have.

7 MR. LASKOW: I might not be able to give the details
8 that Mr. Taylor could have given the Committee, but I think
9 I can answer the questions.

10 I am Chief Counsel to the Insurance Department - - -

11 MR. CASPER: Excuse me, I'm sorry. I apologize for
12 interrupting. I just wanted to mention, because some of the
13 members may be unsettled, we will have another opportunity
14 perhaps to speak with Bill Taylor. We will have another
15 hearing regarding the CAT Fund and House Resolution 130.

16 REPRESENTATIVE LLOYD: Who is in charge of the Board
17 or the CAT Fund? Why can't we get that guy to come down?

18 MR. CASPER: The Insurance Commissioner.

19 REPRESENTATIVE LLOYD: I guess we have a problem
20 getting testimony because we don't know who he is.

21 CHAIRMAN STUBAN: Let us continue with what we have
22 got. Paul, do you have an opening statement? I guess we will
23 have to correct this for the next hearing.

24 MR. LASKOW: I don't have a prepared statement. I
25 learned I would be substituting for Mr. Taylor yesterday

1 afternoon. As already stated, he is ill, and very seriously
2 ill, and he is under a doctor's care but, as I understand it,
3 is at home. He has both a kidney and spleen ailment that is
4 debilitating.

5 The next likely candidate to testify would have been
6 the Counsel to the CAT Fund itself, but she is appearing and
7 arguing before the Commonwealth Court with regard to what is
8 called Mattes II, the unisex rating of automobile insurance.

9 Nonetheless, I took all of yesterday to prepare to
10 address, as I say, four areas: the revenues and expenses of
11 the fund; the claim administration; the side aspect of the
12 publicity of the fund or the program rather; and what we are
13 doing on consumer assistance.

14 As to income of the fund, the revenues and the expenses,
15 there was a question as to what exactly that was. The billing
16 began May 15th and continued for 30 days; that being the
17 billing for the first year.

18 The revenues in May were a half a million dollars
19 approximately; June, a little more than nine million dollars;
20 July, more than 16 million dollars; and then in August, a
21 little more than seven million dollars for a total of
22 \$33,154,277.07.

23 So far in September there has been an additional
24 \$879,000 collected, so that the fund probably stands today
25 at about 35 million dollars.

1 REPRESENTATIVE LUCYK: Just for the first year, '84
2 billings?

3 MR. LASKOW: That would include the '84 CAT Fund
4 year, plus the first month of the '85.

5 REPRESENTATIVE LUCYK: So that is just the '84, just
6 from the first billing, the first billing; not what we have
7 going now in September, just what was collected from the
8 '84 billing?

9 MR. LASKOW: The monies are not accounted for in
10 that fashion, Representative. The representative of the ICS
11 may be able to answer your question, and that is the sub-
12 contractor who is present.

13 REPRESENTATIVE LUCYK: Who is ICS?

14 MR. LASKOW: ICS is the Pennsylvania Motor Vehicle
15 Insurance Collection Services, Incorporated. It's a non-profit
16 entity established by the insurance industry in Pennsylvania.
17 It was established by the Insurance Federation of Pennsylvania,
18 and other individual insurance companies, which were litigants
19 in the so-called class-action filed in Commonwealth Court.

20 In settlement of that litigation, and I would note
21 that was not a class-action -- it was never certified. So
22 there was not a finding that that was a legitimate action.

23 But those litigants settled the litigation by agreeing
24 to establish this non-profit entity. And the Board members
25 are all insurance industry. And they have an Executive

1 Director which oversees the actual collection system which
2 is being performed by a subcontractor of ICS.

3 Representative, did I answer your question?

4 MR. CASPER: There is a huddle on the field.

5 REPRESENTATIVE WILSON: How many claims do you have
6 in dollars?

7 REPRESENTATIVE LUCYK: I have a constituent -- I have
8 got the guy that was -- the woman that was in the crash. She
9 put her claim in July the 5th and hasn't heard anything as
10 of September the 10th. Is it going to take this long?

11 MR. LASKOW: Well, I assume she had -- she has pre-
12 sented a claim to the Insurance Department?

13 REPRESENTATIVE LUCYK: Bernie, what did she do?

14 MR. KIRSCHNER: The lady submitted it. I received
15 an acknowledgment.

16 CHAIRMAN STUBAN: Bernie, would you like to sit up
17 here since you are a member of the House staff? I don't know
18 of any reason why you couldn't accompany us here at these
19 hearings.

20 MR. KIRSCHNER: Yes. This lady received an acknowl-
21 edgment from the CAT Board on the 5th of July saying they
22 acknowledged her claim and they were going to process it.
23 There seems to be little question, of the information I have,
24 that it is an eligible claim. Her total medical expenses to
25 date are \$175,000. They have been submitted.

1 She has paid her CAT Fund fee to the CAT Fund Board
2 for her registration, and as of two days ago, when I spoke
3 with her, she has heard not one word since the 5th of July
4 at which time they acknowledged that her claim was in.

5 Now, I did call Thomas Busby, who is supposed to be
6 investigating this for me, and he hasn't gotten back to me.
7 That was last Monday.

8 MR. LASKOW: Representative, I don't know the status
9 of all the 190 claims that have been made to the Catastrophic
10 Loss Trust Fund, but I can assure you that you will have an
11 answer tomorrow.

12 REPRESENTATIVE LUCYK: What would be a reasonable
13 time?

14 MR. LASKOW: The precise - - -

15 REPRESENTATIVE LUCYK: A month and a half?

16 MR. LASKOW: Again, if there is a question about the
17 eligibility, that has to be examined. Does she have a no-
18 fault policy?

19 MR. KIRSCHNER: No. No, she doesn't have a no-fault
20 policy. She has a hundred thousand -- she has Medicare. I
21 understand a hundred thousand dollars is being paid by the
22 first-party people, but she now has in excess of \$75,000.
23 Doctors are dunning her for the \$75,000 in bills, and in
24 addition to which, her question, one of her questions was as
25 she lives in a two-story house with a basement, her bathroom

1 is in the basement. And the visiting nurses and doctors
2 have prescribed a chairlift-type of thing for her.

3 She has a -- she is an amputee. To get down to the
4 basement, she would like to know whether she has authorization
5 for that.

6 I have not been able to get an answer from the
7 Department yet, and it's my feeling, and I told Representative
8 Lucyk, it's my feeling that two months seems to be a long time
9 between letters from the first acknowledgment until now.

10 And she has heard nothing. I think I have another
11 question. Have any claims been paid, or have any claims --
12 has any money come out of this 33 million dollars?

13 MR. LASKOW: I would say that in the next -- is the
14 Committee interested in what the expenses are?

15 CHAIRMAN STUBAN: Yes.

16 REPRESENTATIVE WILSON: Yes.

17 CHAIRMAN STUBAN: Let's continue with what you have
18 got to say, and then we will go back to questions.

19 MR. LASKOW: Expenses to date have been to the --
20 what I called ICS, the Pennsylvania Motor Vehicle Insurance
21 Collection Services, Incorporated -- in June of this year,
22 1.7 million dollars; in July, 1.3 million dollars; and in
23 August, \$870,000.

24 In addition, there is a claims administrator which
25 is PIMCO, Pennsylvania Insurance Management Company. They

1 have a two-year contract that covers the period April of '85
2 to April of '87, which is approximately one and a half million
3 dollars.

4 REPRESENTATIVE WILSON: That is a total of four and a
5 half million?

6 MR. LASKOW: Approximately, yes. The CAT Fund claims
7 information I have to present today is as follows: There have
8 been 190 claims presented to the Catastrophic Loss Trust Fund
9 Board. Seventy-eight of these files or claims have been
10 assigned to PIMCO for claims administration.

11 The 25 files or claims have been denied because they
12 either did not eventually surpass the \$100,000, or the
13 individuals were covered by no-fault policies.

14 There are 87 files pending, or claims pending
15 because additional information needs to be secured, or they
16 are waiting for the medical bills to exceed the \$100,000 limit.

17 As to publicity, since mid-May, the Department has
18 issued five separate press releases on the Catastrophic Loss
19 Trust Fund program. It has held a press conference with all
20 of the principals involved in the program in the Capitol
21 media center.

22 It has distributed three different public service
23 announcements to all radio stations in the State of Pennsylvania.
24 It has contacted every acute-care hospital in the state, and
25 provided them with Catastrophic Loss Trust information.

1 It has sent a question-and-answer brochure on the
2 Catastrophic Loss Trust Fund to all 500 senior citizen centers
3 in Pennsylvania.

4 It has run a printed advertisement in a dozen major
5 newspapers informing people that with their registration
6 renewals, they will have the obligation of using a proof-of-
7 payment sticker.

8 The press secretary has conducted more than 100
9 interviews with media throughout the state. And it has dis-
10 tributed, to every state legislator, the question-and-answer
11 brochure on the Catastrophic Loss Trust Fund, the collection,
12 plus a booklet on the benefits that are provided.

13 Finally, it has -- the Department has responded to
14 provide to consumers assistance, and its regional offices of
15 the Bureau of Insurance Consumer Affairs, has answered,
16 on average, 150 calls a day in Philadelphia, 60 a day in
17 Pittsburgh, 35 a day in Erie.

18 In addition, the Bureau of Insurance Consumer Affairs
19 in Harrisburg has responded to 100 calls a day. And the
20 Catastrophic Loss Trust Fund staff has responded to an
21 additional 50 calls a day. That is the basic information that
22 I have to present to the Committee, and would answer the
23 questions of the Committee.

24 CHAIRMAN STUBAN: We will thank you for your infor-
25 mation, and it's going to be tough here because we have got a

1 lot of problems and a lot of questions. And one of the
2 questions I'm going to be bringing forward, and my representa-
3 tives from both my district offices are here today; they give
4 us a toll-free number to our constituents, and nobody can get
5 through on that toll-free number.

6 You made a statement in here that you answered 150
7 calls a day in Philadelphia. The girls in my Berwick office
8 made 20 attempts on Monday to get through, made 10 or 15
9 attempts on Tuesday to get through, and they set up some kind
10 of special number for the Legislature and you can't get
11 an answer.

12 And the problem we are really having is that, you
13 know, we are all elected to office, and most of us got
14 elected to office to say that we are there to serve our
15 constituency. We have district offices; we try to be respon-
16 sive to the people.

17 The people call us with problems and we can't get answers
18 for them. And it's just too bad you are here representing
19 the Insurance Department, and I think the big kick and the
20 big problem is with the people that are collecting the fund.

21 MR. LASKOW: That is not us.

22 CHAIRMAN STUBAN: And that is not you, and it's going
23 to be tough for us to get the answers.

24 MR. LASKOW: Here as well - - -

25 REPRESENTATIVE LUCYK: Can I -- it's just I had a

1 question yesterday. Who is ultimately responsible for this?
2 We have PennDOT involved, we have the Insurance Department
3 involved, we have this ICS involved. Who is ultimately
4 responsible for the CAT Fund, and who do I call when I have
5 a problem with this? And how can I call them?

6 MR. LASKOW: The Insurance Department is responsible,
7 has primary responsibility for the administration of the fund;
8 the processing of claims, explaining the claims process, and
9 making -- paying on the claims.

10 The primary responsibility for collecting it is the
11 entity designated by the Insurance Commissioner pursuant to
12 the statute, which is the Pennsylvania Motor Vehicle Insurance
13 Collection Services. That is the industry. That is their
14 representative.

15 It's the IFP, and it's the individual insurance
16 companies that were the litigants in Commonwealth Court.
17 They have primary responsibility for collecting it. They
18 have primary responsibility for publicizing it.

19 The statute imposes an obligation of publicity on the
20 Executive Director of the CAT Fund only for the benefit side
21 of this equation. The collection system, and the execution
22 of the settlement agreement, is the responsibility, clearly
23 the responsibility of ICS. Their representative is here and
24 their subcontractor is here.

25 A REPORTER: Could I ask a question?

1 CHAIRMAN STUBAN: No. It wouldn't be appropriate if
2 we are going to have to open it up today. We can get you
3 individually. You can ask him a question, later, Jerry.

4 I understand that there is going to be somebody
5 representing the General Data Systems, Incorporated who is
6 here?

7 MR. CASPER: That is this afternoon.

8 CHAIRMAN STUBAN: The collection people this afternoon.
9 I think we can get to - - -

10 REPRESENTATIVE LUCYK: I have one.

11 CHAIRMAN STUBAN: Go ahead, Representative Lucyk.

12 REPRESENTATIVE LUCYK: You know the difference between
13 an insurance company and a racetrack? You know, you go to a
14 racetrack, you got a \$2.00 win ticket. You buy the insurance,
15 you buy an insurance policy.

16 You win at the racetrack, you walk up to the window,
17 they pay you. The insurance company, you file, you are fought
18 tooth and nail.

19 On this fund, you said you are responsible for claims,
20 and I have a claimant right now. Now, if I pay my \$5.00 into
21 this fund, and I have a legitimate claim over a hundred thousand
22 dollars, am I going to have to go through six months of liti-
23 gation and hire attorneys and all that stuff, you know, to get
24 my claim paid as I would through a normal insurance company?

25 MR. LASKOW: Absolutely not. There was no requirement,

1 if you have a legitimate claim, to hire an attorney, certainly.
2 It does require some time for the medical bills to be reviewed
3 and to be certain that the medical expenses that have been in-
4 curred are properly covered by the fund.

5 It is true that the fund works something like an
6 insurance company. It has to gather the claims information,
7 and also to evaluate how to project the payment of claims in
8 the future.

9 There are a number of very complex questions to be
10 considered in the evaluation of a claim. I think it takes some
11 amount of time, but I think that it would be inappropriate
12 for the administrators of the fund, and it would violate their
13 fiduciary responsibility, to just write a check based upon an
14 unsubstantiated claim. And that substantiation process takes
15 some time. How much time I can't tell you, but I can certainly
16 tell you that we are going to look at the one that you are
17 most concerned about.

18 REPRESENTATIVE LUCYK: Who is the acting Commissioner
19 now?

20 MR. LASKOW: George F. Grode.

21 REPRESENTATIVE LUCYK: Has he called you in and said,
22 "This is all mixed up? We are getting all kinds of problems
23 with the publicity. People don't know what is going on,"
24 et cetera, et cetera.

25 What do you have, meetings? Right, Bill, is that your

1 question? You know, we are taking a brunt on this thing,
2 and I'm ticked off. I know everybody else is, especially
3 with the insurance companies, with the basic law, but we are
4 just addressing the CAT Fund here now.

5 You know, are you guys interested in this, the
6 Insurance Commissioner interested in this? Is he calling and
7 saying, "How can we get this mess straightened out?"

8 MR. LASKOW: Well, the Insurance Commissioner certainly
9 shares all of your concerns.

10 REPRESENTATIVE LUCYK: Now, the guy who flew the coop;
11 did he leave over this whole mess-up; that he didn't want to
12 be faced with this?

13 MR. CASPER: Muir.

14 MR. LASKOW: I can't respond to that question.

15 REPRESENTATIVE LUCYK: Do you have meetings as to
16 what is going on here?

17 MR. LASKOW: Yes. The Commissioner is fully aware
18 of some of the difficulties that you are experiencing, is
19 aware of the problems in the collection that may be inherent
20 in the system of collection as opposed to the execution of the
21 settlement agreement.

22 And he is interested in making it work better. I
23 think that is why -- although we have no primary responsibility
24 for publicity of collection, there has been considerable
25 publicity on the collection.

1 REPRESENTATIVE LUCYK: Let me tell you something.
2 You are an attorney, okay. And I don't know who decided the
3 publicity that is going out in this thing, but I have people
4 that I represent that, number one, don't know how to read,
5 they don't know how to write, they don't know how to fill out
6 a form.

7 If your publicity was aimed at people of your level,
8 or whatever level, college graduate, it's not working. I
9 don't understand the system, okay, myself. And if I don't
10 understand, I know the people that I represent don't under-
11 stand it.

12 So you better go back to the Insurance Commissioner
13 and tell him what I am telling you right now: that the people
14 on the street don't know what is going on, and you better take
15 some steps to get the thing straightened out, and that is
16 the bottom line of this whole hearing.

17 Now, what money was taken, what money was paid out,
18 it's all irrelevant. The problem is that the people of Penn-
19 sylvania, the 50 percent of the bill curve, okay, that either --
20 in that bill curve don't understand this system.

21 And, you know, that is what I am trying to get at here
22 today. Will you take that back?

23 MR. LASKOW: I largely agree with you, Representative,
24 but I think that the revenues belie that. The money is coming
25 in. People really do seem to understand it. There is a

1 considerable number of people that don't.

2 REPRESENTATIVE LUCYK: You want me to tell you about
3 the guys that put it on the license plate, that put it on
4 the windshield? And the fellow that walked into me one
5 Monday morning and flipped a registration at me and said,
6 "I'm not paying double for this because PennDOT cashed my
7 check and they sent my registration back, and I stuck my
8 sticker on the license plate."

9 Who is going to take care of that for me? Not you,
10 not you.

11 MR. CASPER: Excuse me, but to dovetail -- not to
12 interrupt but to dovetail what Representative Lucyk is saying,
13 a sheet that we received from the capable staff of the
14 Insurance Committee mentioned that in the early weeks of
15 this registration period, in mid-July, 95 and 85 are the
16 numbers -- the number is in here but 95 and 85 percent of the
17 registration applications were rejected because they didn't
18 have a CAT Fund sticker.

19 And I do suppose that the people reapplied and the
20 percentage of rejection dropped, as you have the weeks in
21 August coming in to play. But still for the time period of
22 July 12th to August 19th, 39 percent of the motor vehicle
23 registration applications were rejected.

24 I guess John could answer that better than you could
25 but - - -

1 MR. PACHUTA: We prepared that report.

2 MR. CASPER: You prepared that report so I guess - - -

3 REPRESENTATIVE LUCYK: And the reason they are getting
4 paid is because Karen back there has been probably processing
5 20 a day, you know. I know what my office is processing,
6 people coming in a day, you know, and I will have to go out
7 and buy a book of these stickers and they pay the \$5.00 for
8 half the people to get their registration.

9 If you are telling me that they are informed and they
10 know what is going on, then you come down and sit in the
11 district office one morning, and you take care of the people
12 walking in, if you think that they understand.

13 MR. CASPER: So we have 39 percent of the people we
14 know who are obviously confused because they didn't do it the
15 right way. We are not -- what we don't have here is the per-
16 centage of people that had to call PennDOT to get information,
17 had to call the various state Representatives for this infor-
18 mation, who were confused and were set straight before they
19 sent their motor vehicle application in.

20 So presumably we will be handling around, with the
21 percentile, well over 50 percent considering those items that
22 we can't quantify as we can this.

23 But this we can quantify and it came from the Depart-
24 ment. We trust it's reliable information, and it said 39
25 percent of the motor vehicle registrations were rejected

1 specifically because of no CAT Fund sticker.

2 MR. LASKOW: Well again, I have a more detailed report
3 on the publicity efforts of the Insurance Department. I would
4 like to give that to the Chairman.

5 REPRESENTATIVE LUCYK: It's not working.

6 MR. LASKOW: But again, the primary responsibility
7 for publicity is not the Insurance Department on the collection
8 of this \$5.00.

9 CHAIRMAN STUBAN: We would appreciate receiving your
10 report, you know, and whatever you could provide us. Provide
11 it to the Committee, and I'm sure we will get it.

12 Representative Lloyd?

13 REPRESENTATIVE LLOYD: Thank you, Mr. Chairman.

14 To backtrack a little bit, you said that four and a
15 half million dollars has been paid out so far in expenses.
16 What has that paid for?

17 MR. LASKOW: The billing of the first year of the
18 CAT Fund, and the first two months of the second year of the
19 CAT Fund. And only a portion of the PIMCO contractual
20 obligations have been actually spent. They are being paid as
21 they go. Their contract is for a two-year period, and the
22 total cost of that contract is about 561,000.

23 REPRESENTATIVE LLOYD: Well, I've seen and heard all
24 kinds of estimates about how much this is costing us to collect.
25 And I'm not sure that this arithmetic comparing four and a half

1 million to 30 million is consistent with any of the figures
2 that I've seen. That seems to be substantially lower than
3 the estimates that I have heard. I've heard estimates of
4 70 some cents to collect \$5.00. What is the collection cost?

5 MR. LASKOW: The collection cost for the first year
6 is approximately 48 cents, but I would like to -- 48.135 cents,
7 and that is per registrant who applies.

8 Now, the actual cost may be somewhat lower because if
9 somebody doesn't respond; I think Mr. Pachuta can tell you
10 what the response rate should be. If there is no response,
11 we are not billed for the processing end of the billing process.

12 Fourteen cents is paid for the bank that is processing,
13 and we can have an individual -- that cost is -- it may not
14 be as high as 48 cents times the total number of registrants.

15 The second year cost is 76.58 cents.

16 REPRESENTATIVE LLOYD: Why is the second year higher?

17 MR. LASKOW: Because there is an additional mailing
18 in the second year. That is the year with the sticker. The
19 first year there was not sticker.

20 REPRESENTATIVE LLOYD: I see.

21 MR. LASKOW: And again you would avoid the 14 cents
22 of that if someone did not reply.

23 REPRESENTATIVE LLOYD: That answers my question. That
24 is the 76 cents that I have heard; I understand that now.

25 To go back to the question, since you are the expert

1 with the administration speaking today on policy, what the
2 public policy ought to be on mandatory coverage, why shouldn't
3 we simply abolish this fund? Why shouldn't we simply say
4 over \$10,000, freedom of choice, you are on your own?

5 MR. LASKOW: I have no personal opinion, and I am not

6 - - -

7 REPRESENTATIVE LLOYD: What is the administration's
8 position?

9 MR. LASKOW: They haven't articulated it to me,
10 and I can't, Representative, I can't answer it. But I would
11 add one point. And the question was, what will happen to these
12 people over a million, or if you don't even have the CAT Fund?

13 Eventually, it's all going to come around that the
14 people will become charges of the state if they don't have
15 insurance. And if someone has a loss of more than a hundred
16 thousand, that is going to wipe everybody out.

17 REPRESENTATIVE LLOYD: What happens to the guy who
18 has a loss of \$95,000 right now? We are not worried about him.
19 He becomes a charge of the state, perhaps as well, but nobody
20 seems to care about that.

21 MR. LASKOW: If he hasn't taken -- in two instances,
22 where he hasn't taken the optional coverage to a hundred
23 thousand, or he doesn't have health insurance through his
24 employer or otherwise.

25 REPRESENTATIVE LLOYD: All right. And a lot of people

1 don't.

2 MR. LASKOW: That's correct. In that event, they
3 would become a charge of the state, so they would be - - -

4 REPRESENTATIVE LLOYD: Why are we willing to let those
5 people become charges and not willing to let the people over
6 a hundred thousand become charges of the state? Because I
7 would assume that there is going to be a lot more people
8 between \$10,000 and a hundred thousand dollars than there are
9 over a hundred thousand.

10 MR. LASKOW: I'm not sure I understand the question.

11 REPRESENTATIVE LLOYD: I assume that the number who are
12 without insurance, because they don't have any protection
13 between 10,000 where their own insurance policy stops and
14 the hundred thousand where the CAT Fund kicks in, and they
15 are out of work and they are not bringing down a paycheck,
16 and maybe they are on welfare until they get back to work.

17 And now we are saying fine, we believe as a matter
18 of public policy that that is their choice. I don't understand
19 why we shouldn't say the same thing for people who have
20 injuries over a hundred thousand. What is the magic? What is
21 the magic of a hundred thousand dollars?

22 MR. LASKOW: Representative, I just don't have an
23 opinion about that.

24 REPRESENTATIVE LLOYD: Well, what would happen then
25 if instead of having this collected by ICS, we had it collected

1 as part of the insurance premium?

2 REPRESENTATIVE MURPHY: Bill, can I just ask one
3 thing to develop that? Would the Insurance Department support
4 the Legislature putting the collection of the \$5.00 back on
5 the insurance premium?

6 MR. LASKOW: I have not heard Commissioner Grode express
7 an opinion on that.

8 REPRESENTATIVE LLOYD: I guess I don't understand.
9 You know, I heard what you said to Representative Lucyk that
10 you are not responsible for the publicity and the collection
11 side. And now I hear what you are saying, and you are in a
12 very uncomfortable position, I realize, because you were sent
13 here without the authority and without maybe even the knowledge
14 of what the administration's position is.

15 But there is no single issue in this state right now
16 that has people more agitated than insurance rates and this
17 \$5.00. And you can say, 'til you're blue in the face, that
18 people understand this, but I just worked my county fair for
19 a week. I took my office to the fair, and I got pounded
20 constantly for a whole week about the \$5.00.

21 And you look at the figures of people who had sent it
22 back, and that is just the tip of the iceberg, because a lot
23 of people who sent this in, they don't understand why. They
24 know they are supposed to pay or they don't get their
25 license.

1 But they don't understand -- they think that they are
2 paying double coverage. I don't know how many people I had
3 to set straight on how this money was used for parties and
4 big salaries for people running around in Harrisburg.

5 REPRESENTATIVE LUCYK: It is.

6 REPRESENTATIVE LLOYD: For double coverage. They
7 don't understand, even people who are paying. You can't tell
8 us the administration's position; who is the leader? Where
9 is the Insurance Commissioner? Why isn't the Insurance
10 Commissioner coming to the Legislature saying, "Here, it is
11 me; I am willing to go on television to defend that because
12 I think it's the best we can do, it's a good benefit"? And
13 if we explain it to people, as other witnesses have said,
14 they will think it's a good idea too, because \$5.00 is cheaper
15 than a hundred and thirty.

16 Where is the Insurance Department when it comes time
17 to call in ICS and say, "Look, fellows, you screwed this up.
18 What are you going to do tomorrow morning to fix it?"

19 To say that the Insurance Commissioner is aware of
20 this problem just simply doesn't cut the mustard. That is what
21 he is in office to do. That is his responsibility to carry out
22 the law.

23 And I would say that I think that there is no question
24 in my mind that if we don't -- if we want to pass a Title 75
25 bill for the balance of this session, we better get this \$5.00

1 problem solved or they will have an amendment on each and
2 every one of those bills because it's not going to pass the
3 House of Representatives, I'm sure, without amendments from
4 Ben Wilson, a lot of other people, to abolish the fund or change
5 the way it's collected.

6 The administration better get its ducks in a row so
7 it has a position it wants to take, to work with us.

8 I agree with the Governor. I think he was right all
9 along. I think IRRC had its head in the sand. I don't think
10 the state should be collecting; I don't think the state should
11 be in the insurance business.

12 Now, let's come back to the proposal. Get this thing
13 straightened up and either get rid of it or have it run right.
14 And I certainly hope that the next hearing we have, that we
15 have somebody here from the administration who has the authority
16 to say what the administration's views are, and to tell us
17 what they intend to do, so when we go back to session, we
18 can clean up this whole situation. Thank you, Mr. Chairman.

19 REPRESENTATIVE LUCYK: Let me -- so you understand
20 why we are so hot about this CAT Fund and the new insurance
21 bill, I don't like to get a call from a constituent who went
22 to his insurance agent and he says to his insurance agent,
23 "Why did my insurance bill go up 30, 40, 50, sometimes even
24 double?" And the insurance agent says to that fellow or man
25 or girl, "I don't know. It's that new insurance law. Call your

1 legislator."

2 And I get a call, and this isn't just one instance.
3 I'm telling you hundreds when this new law went into effect,
4 of people calling me and saying, you know, "My insurance went
5 up 40 percent, and my insurance agent said, 'I don't know any-
6 thing about this, call your legislator. It's the new
7 insurance law they just passed.'"

8 This is why I'm personally mad at the Insurance
9 Department and the insurance industry as a whole. And I
10 mean, I'm really mad and I got off the Insurance Committee
11 this time just for that reason, because I couldn't be fair
12 acting on that Committee.

13 And that is another message I want you to take back
14 to the acting Insurance Commissioner. You know, I don't like
15 agents out in the field, you know, telling customers, "I
16 don't know why; I can't really explain this."

17 Or if a fellow comes to me and I explain it to him,
18 I have to take my time to explain his insurance bill to him,
19 and why his rates went up and call Bernie and take Bernie's
20 time.

21 You know, why am I involved in this? Why, as a State
22 Representative, do I have to explain insurance bills to people?
23 Can you answer this for me?

24 MR. LASKOW: It seems to me it's irresponsible for
25 an agent to say, "I don't know why the premium is what it is."

1 REPRESENTATIVE LUCYK: He knows what it is. He knows
2 why it is, but he is not explaining it. He is saying, "Blame
3 your legislator." And I don't think there is anybody here
4 sitting at this table that didn't get a call like that.

5 MR. LASKOW: But there is no direct -- there is no
6 direct role for the Insurance Commissioner over that agent who
7 refuses to explain the premium.

8 REPRESENTATIVE LUCYK: Why isn't there a direct role?
9 Because when the bills went out and people were put -- on
10 reflection of this bill, where the one, the guy carried
11 \$10,000 liability and all of a sudden he carries \$30,000
12 because it was up along those categories. Why didn't the
13 Insurance Commissioner look into that? Why are they, the
14 insurance companies, doing that? What do we have an Insurance
15 Department for?

16 CHAIRMAN STUBAN: I think what we will do is when we
17 get back to Harrisburg, and I'm going to convey this to Scott,
18 when he gets back and can get ahold of Amos, that maybe we
19 could call a special meeting in Harrisburg of this Committee
20 with the express purpose of having the Insurance Commissioner
21 at that meeting. And that will be the only person at that
22 meeting.

23 MR. CASPER: Right.

24 CHAIRMAN STUBAN: Bernie?

25 MR. KIRSCHNER: Thank you. Counsel, I got something

1 that came out that doesn't sound right to me. You said that
2 ICS was the agent of the insurance industry.

3 REPRESENTATIVE LUCYK: Why?

4 MR. LASKOW: It was created by the insurance industry.
5 It was created by the Insurance Federation of Pennsylvania
6 and the individual insurance companies who were the litigants
7 in the Commonwealth Court.

8 MR. KIRSCHNER: And the insurance industry contracted
9 with them; is that correct?

10 MR. LASKOW: Or - - -

11 MR. KIRSCHNER: My question is: Was the contract
12 signed with ICS by the insurance industry, or did the CAT Fund
13 Board sign a contract with ICS to do the collecting?

14 MR. LASKOW: ICS is the insurance industry. It is the
15 Insurance Federation of Pennsylvania. It was created -- it
16 was formed, it is incorporated by and its Board of Directors
17 are the insurance industry.

18 It's IFP, it's the individual insurance companies:
19 the Erie, Keystone, Nationwide; they form the Board of
20 Insurance Collection Services, Incorporated.

21 There is a contract between ICS and the Insurance
22 Department and PennDOT for the collection of the \$5.00. There
23 is a subcontract -- as far as I know, the only employee of
24 ICS is the Executive Director, Frank Holczman. The subcontract
25 is with the company called General Data Systems, Limited.

1 MR. KIRSCHNER: Let me see if I can get this straight
2 now. I'm trying to get -- to determine the responsibility
3 of publicity. You said that it is the responsibility, as I
4 remember this now -- maybe I didn't hear it right -- that it
5 is the responsibility of ICS to publicize the collection
6 methods; is that what you said?

7 MR. LASKOW: That's correct. That is the specific
8 term of the job description of Frank Holczman, who is being
9 compensated. He is a paid employee of ICS.

10 In response to something Representative Lucyk said,
11 the Board of the Catastrophic Loss Trust Fund is not compen-
12 sated in any way, apart from the Insurance Commissioner who
13 is the Chairman.

14 MR. KIRSCHNER: Now, does the contract that is signed
15 by the Insurance Department and PennDOT with ICS specifically
16 state -- do you have a copy of that contract wherein it states
17 that the publicity -- the responsibility of publicity rests
18 with Frank Holczman, or whoever this person or this entity is?

19 MR. LASKOW: The contract does not specifically state
20 that, but the job description of Mr. Holczman does.

21 MR. KIRSCHNER: Do you have any idea what the language
22 is, how it's worded?

23 MR. LASKOW: In the job description?

24 MR. KIRSCHNER: Yes.

25 MR. LASKOW: No, I don't have that with me, but I will

1 be happy to provide it.

2 MR. KIRSCHNER: The legislation that I think the
3 General Assembly passed, and the Governor signed, says as
4 follows, and I really can't understand where this problem is
5 coming from. This is under the responsibilities of the
6 Executive Director of the CAT Fund Board.

7 Item (d)(3). The Executive Director shall establish
8 a program to assure continuing publicity to the residents of
9 this Commonwealth with respect to the existence of the fund.

10 Now, it seems to me that the responsibility lies with
11 the CAT Fund Board, and not with a collection agency who has
12 the responsibility of sending a bill out. And Frank Holczman
13 told me that he doesn't get paid; he has never received a
14 penny out of this; that this is all a part of his job with
15 the Insurance Federation; that this is just an extra job that
16 he has got.

17 MR. LASKOW: I don't know whether he is collecting a
18 salary, but we are paying for him to do it. Not we -- I
19 should say the Catastrophic Loss Trust Fund is paying for that
20 service.

21 MR. KIRSCHNER: Didn't you say that the cost was
22 collected -- that had to do with the cost of the money that
23 went into the Mellon Bank and the check charges and the cost
24 of printing and the cost of mailing, and was there any -- is
25 there any line item on there that has to do with salaries that

1 have been paid out or are anticipated to be paid out of the
2 ICS?

3 I haven't seen it. I have seen some of these contracts
4 that have crossed my desk, but I have not seen this. I feel
5 that somewhere along the line, we are getting some signals
6 crossed.

7 MR. LASKOW: What is your question?

8 MR. KIRSCHNER: My question is: Is there a line item
9 in the contract that says the Executive Director, whether Mr.
10 Holczman or whoever it is, is to collect a salary or -- and
11 has collected a salary and the CAT Fund has paid it?

12 MR. LASKOW: The contract is on a per-registrant
13 basis. It pays for the service in the aggregate, all the
14 services aggregated; they are collecting one fee.

15 ICS submitted a budget and a job description to the
16 Insurance Department to justify why what we pay ICS is more
17 than what ICS is paying GDS.

18 That budget provided for advertising, and it provided
19 for a salary for Mr. Holczman and a salary for a secretary;
20 legal fees, accounting fees to the tune of \$90,000 a year.
21 So ICS has responsibilities clearly. They are set forth in
22 the job description of Mr. Holczman, and they are compensated
23 to do it.

24 MR. KIRSCHNER: That is something that we have never
25 heard before. I have been attending a lot of these meetings,

1 and I am glad you brought that to my attention. Could you
2 supply this Committee with a copy of that contract?

3 MR. LASKOW: The contract, prime contract between the
4 Department - - -

5 MR. KIRSCHNER: The contract between the two departments
6 and ICS.

7 CHAIRMAN STUBAN: If you don't have it, could you
8 forward it to us? Okay. Thank you. Representative Murphy?

9 REPRESENTATIVE MURPHY: Just to go into what Bernie
10 was saying, aren't you the least bit curious about the contract
11 or the \$90,000 that is being paid out for salaries and the
12 individuals shown to be receiving those salaries and the con-
13 tract indicates he has not received any money, as to where the
14 \$90,000 is going?

15 MR. LASKOW: I haven't had a full - - -

16 REPRESENTATIVE MURPHY: Does that make you curious
17 today, just sitting here?

18 MR. LASKOW: It certainly does. The Commonwealth
19 retains, in the contract, the authority to fully audit it.

20 REPRESENTATIVE MURPHY: It seems to me it would be
21 very easy to determine whether Frank Holczman is receiving
22 this money or, in effect, are we subsidizing the Insurance
23 Federation. I would like an answer by early next week on that
24 question as to Frank Holczman, if he is getting this money
25 or not. And if he is not getting it, who is, and is that

1 person working?

2 MR. LASKOW: We have the obligation to pay ICS. We
3 don't have the obligation - - -

4 REPRESENTATIVE MURPHY: I want to know if you have
5 a full-time staff person. They have indicated to you that
6 Frank Holczman is receiving \$90,000 in salaries and a secretary
7 to run an office to administer this program. If in fact he
8 is not administering this program and he is not receiving
9 that salary, and he is -- this is one of the 50 responsibilities
10 he has for the Insurance Federation, then we have a problem,
11 don't we?

12 And if there is not a full-time administrator - - -

13 MR. LASKOW: If you misunderstood me -- he is not
14 getting a \$90,000 salary.

15 REPRESENTATIVE MURPHY: I understood you to say
16 \$90,000 is being spent for administration - - -

17 MR. LASKOW: That's correct.

18 REPRESENTATIVE MURPHY: - - - including salaries.

19 MR. LASKOW: His salary, as I recall, is set at
20 \$20,000 as a part-time Executive Director.

21 REPRESENTATIVE MURPHY: Well, what I want to know is,
22 is there anybody there on a day-to-day basis other than the
23 secretary, getting \$20,000 and is responsible for administering
24 this, or is this Frank Holczman -- is this one of the 50
25 responsibilities he has for the Insurance Federation? Will you

1 find out?

2 MR. LASKOW: I believe you can get the answer because
3 a member of the Board of Directors of ICS is present.

4 REPRESENTATIVE MURPHY: Thank you.

5 MR. LASKOW: He may be able to answer that.

6 REPRESENTATIVE MURPHY: You indicated there is a con-
7 tract with the Department of Transportation and ICS for the
8 Department to do certain things. How much is the Department
9 of Transportation -- John, you may want to answer. Do you
10 get reimbursed to do the work that you obviously are doing,
11 and what does it cost the Department to administer and reject
12 all these registrations we are getting because they don't have
13 the CAT Fund sticker?

14 MR. PACHUTA: The contract referred to is what was
15 the result of the final settlement by the court.

16 REPRESENTATIVE MURPHY: How much did we get paid?

17 MR. PACHUTA: We have yet to submit a bill to the
18 CAT Fund for additional costs that we have incurred.

19 REPRESENTATIVE MURPHY: Your cost will be what your
20 actual costs are?

21 MR. PACHUTA: Yes.

22 REPRESENTATIVE MURPHY: There will not be a built-in
23 subsidy from the Department?

24 MR. PACHUTA: No, there won't be a \$90,000 fee from
25 the Department of Transportation for collecting.

1 REPRESENTATIVE MURPHY: But we will be reimbursed for
2 the actual administrative costs?

3 MR. PACHUTA: I expect to submit a bill to the CAT
4 Fund Board.

5 REPRESENTATIVE MURPHY: I didn't ask you that. Are we
6 going to be reimbursed for all the administrative costs, or
7 are we in fact building a subsidy for the Department of
8 Transportation to further administer the CAT Fund?

9 MR. PACHUTA: I see no reason why it would be objected
10 to. I intend to submit a bill for the added costs we have.

11 REPRESENTATIVE MURPHY: The additional costs? I mean,
12 you have kept track of those?

13 MR. PACHUTA: Yes, sir.

14 REPRESENTATIVE MURPHY: I mean your postage and so on,
15 what it cost to mail back each registration? Thank you.

16 MR. PACHUTA: Items of rejection and additional
17 publications that we have had to print inserts about; insert
18 rejection cards, extra postage and so forth that we have
19 incurred, we expect to bill the CAT Fund.

20 REPRESENTATIVE MURPHY: Salaries of employees?

21 MR. PACHUTA: The salaries. That would be above and
22 beyond -- we have not hired anyone additionally to work on
23 CAT Fund rejections.

24 REPRESENTATIVE MURPHY: Obviously somebody did this.
25 We are paying \$90,000 for somebody to administer the CAT Fund.

1 You have got to have a lot of employees spending a lot of
2 time opening envelopes and rejecting these things.

3 MR. PACHUTA: Correct; we do.

4 REPRESENTATIVE MURPHY: You are keeping track of that?

5 MR. PACHUTA: In the sense that we are keeping track
6 of all the employees' time as divided by ten. Whether or not
7 that is a legitimate cost or not is really not for me to
8 decide, but will probably decide whether or not to pass that
9 along to the CAT Fund.

10 We would have to open and reject anything that would
11 be -- would not have all the requirements for registration,
12 whether it's an unsigned check, no insurance information or
13 no CAT Fund sticker; whether the added costs, you know,
14 whether there are additional costs or not really is, you know,
15 debatable.

16 REPRESENTATIVE MURPHY: Is 40 percent of the -- well,
17 it seems to me it's pretty obvious that 40 percent of your
18 registrations were rejected because the CAT Fund stickers
19 weren't there. That is a significant additional cost, 40
20 percent of six million people.

21 MR. PACHUTA: It would seem to me to be legitimate
22 as well.

23 REPRESENTATIVE MURPHY: I mean, I would say that if
24 you are not billing a salary, then the Commonwealth is being
25 shortchanged, so I hope that you will respond back to us as

1 soon as you can to indicate whether you are keeping track of
2 the employees' time.

3 MR. PACHUTA: I can assure you we are keeping track
4 of it, but whether or not - - -

5 REPRESENTATIVE MURPHY: Whether you recommend - - -

6 MR. PACHUTA: Whether or not I am including that in
7 the billing or not.

8 REPRESENTATIVE MURPHY: Will you please indicate to
9 us what you are going to include in the bill that you are
10 asking to be reimbursed for?

11 MR. PACHUTA: Yes, sir; I will be happy to.

12 REPRESENTATIVE MURPHY: Thank you. A little bit of
13 confusion for me. My policy, for example, as a million of
14 other Pennsylvanians, overlaps the implementation of this law,
15 so was I not paying twice, once for the \$5.00 for the catastro-
16 phic coverage, and then, because my policy was continuing
17 within that time period, was I not also getting unlimited
18 medical coverage on that policy, so was I not in effect
19 paying twice for the same coverage for the Commonwealth?

20 MR. LASKOW: You paid once for your CAT.

21 REPRESENTATIVE MURPHY: I paid once for my CAT Fund.
22 Because my old no-fault policy overlapped when the CAT Fund
23 came into existence, I already had an unlimited medical
24 coverage. The first \$5.00 I paid, for many millions of
25 people in this Commonwealth, was basically redundant coverage

1 that I already had paid; is that not correct?

2 MR. LASKOW: Some people had no kind of catastrophic
3 coverage.

4 REPRESENTATIVE MURPHY: I understand that, but is it
5 not correct that lots of people in the Commonwealth in effect
6 paid for coverage twice?

7 MR. LASKOW: No.

8 REPRESENTATIVE MURPHY: Why not?

9 MR. LASKOW: Because at some point in the first CAT
10 Fund year, you did not have no-fault benefits.

11 REPRESENTATIVE MURPHY: There was a point when I did
12 have it, was there not? And I was buying double coverage at
13 that point, was I not?

14 MR. LASKOW: You could say you were paying in advance
15 for the time period that you had no no-fault coverage.

16 REPRESENTATIVE MURPHY: My feeling is that what this
17 did, in effect, was built in, which should be at least a
18 surplus for the first year, of revenues over what should be
19 claimed because some of those claims you have indicated pre-
20 viously will be shifted back on the no-fault system, the old
21 no-fault system.

22 MR. LASKOW: That's correct.

23 REPRESENTATIVE MURPHY: So we should leave the first
24 year with a substantial cushion; is that not correct?

25 MR. LASKOW: If the actual actuarial assumption of the

1 information would be correct.

2 REPRESENTATIVE MURPHY: Now, you had indicated there
3 were 190 claims for the first year, and 87 or 78 of those
4 were set up, have been determined to be actual, real claims
5 and specifically been set up, a number were rejected in 87
6 or are still pending, waiting for more information.

7 Have you put on those 78 that have been determined
8 to be claims, is there an estimate of the resources necessary
9 that will have to be put aside to cover those claims?

10 MR. LASKOW: Yes.

11 REPRESENTATIVE MURPHY: What are those?

12 MR. LASKOW: Five point two million dollars.

13 REPRESENTATIVE MURPHY: For those 78 claims, and
14 they are - - -

15 MR. LASKOW: This is on 64 claims.

16 REPRESENTATIVE MURPHY: Sixty-four claims. And there
17 are another 87 claims that are pending; is that correct?

18 MR. LASKOW: May or may not be claims.

19 REPRESENTATIVE MURPHY: So you are saying there are
20 47 claims that would be received that were denied, either
21 because they were covered under the old system or were not
22 actually automobile-related or whatever?

23 MR. LASKOW: Twenty-five.

24 REPRESENTATIVE MURPHY: Twenty-five, I'm sorry, okay.
25 So that if that is the average of 5.2 million dollars for 64

1 claims, there should be more than enough money in the CAT Fund;
2 is that not correct? I mean, if they carry in that ratio in
3 effect, 5.7 million -- 5.2 million for 64 claims carries over
4 to the 87, then it looks to me like the settlement is less
5 than 15 million dollars to absorb it.

6 MR. LASKOW: That may involve some sort of actuarial
7 -- I'm not an actuary. I don't know if that is -- it makes
8 sense to me but I don't know if it is correct.

9 REPRESENTATIVE MURPHY: What have your actuaries said?
10 Do they feel comfortable that the 35 million dollars you have
11 collected is more than sufficient to absorb the cost?

12 MR. LASKOW: There has not yet been an actuarial
13 analysis done. You need a certain amount of claims experienced
14 before you can do an actuarial - - -

15 REPRESENTATIVE MURPHY: But we have the claims
16 experience. We have had the no-fault system since 1974. You
17 can't act as if this is something new. I mean, we know what
18 the catastrophic injuries have been in Pennsylvania for the
19 last 15 years. We have that history, do we not?

20 MR. LASKOW: The CAT Board will need to retain an
21 actuary who will have to do an actuarial analysis to determine
22 if there is sufficient funds in the Catastrophic Loss Trust
23 Fund.

24 REPRESENTATIVE MURPHY: Are you in the process of
25 doing that?

1 MR. LASKOW: It has an actuary who has not yet been
2 retained because we are waiting to get sufficient loss experience.
3 It will be done before January 1.

4 REPRESENTATIVE MURPHY: Okay. My final concern, I
5 guess, is how you pay bills. And I think Ed Lucyk's experience
6 with his constituent in not hearing from you in two months is
7 going to be more than -- my biggest concern is, I guess, if
8 somebody has a catastrophic injury, under the old system there
9 was an insurance agent who had a powerful motivation to
10 work with that person very carefully to settle the claim and
11 to provide rehabilitation services as quickly as possible.

12 My impression of the system that you have established
13 is that it's an anonymous bureacracy that is going to be
14 responding, as you really indicated, very slowly to avoid
15 both the need for rehabilitation and the need for getting
16 medical bills paid on a timely basis.

17 And my question is: Have you given any thought to
18 how you might establish a system that can respond more
19 effectively and more compassionately than obviously has been
20 established already? I mean, legislators cannot get a
21 response out of your system. People come to us to get a
22 response. How do you expect an individual who has no dealings
23 at all with the bureaucracy to get a response from an 800
24 number in Harrisburg when they are dealing with somebody who
25 might be paralyzed for the rest of their life?

1 Don't you have a sense that you need a better response
2 system?

3 MR. LASKOW: Representative, I don't know whether
4 Representative Lucyk made his inquiry to the Legislative
5 Liaison. I will accept his fact that this lady made her
6 claim two months ago and hasn't heard anything.

7 REPRESENTATIVE MURPHY: Let me ask you this: You
8 have 64 claims you have approved. I would appreciate knowing,
9 in a general kind of way, what your response times are in
10 those claims; how long it took to make a settlement, how long
11 it took to make a decision as to whether those claims were
12 going to be approved, how long it is taking you to pay medical
13 bills.

14 Are you doing a turnaround in a month? I mean,
15 doctors don't wait a month for \$75,000. They send a collection
16 agency after 60 days after you, and an individual who has
17 suffered a serious injury is not interested in always being
18 dunned by doctors' offices and collection agencies. So I
19 think you have -- at the very least, how long is it taking you?
20 Thank you.

21 MR. LANDIS: I would like to add, I would like to know
22 the qualifications of the people in the Department that are
23 reviewing these claims to make the determination of whether
24 it's a justifiable bill or not. Are they specialists?

25 REPRESENTATIVE MURPHY: I guess my final question is,

1 it's pretty obvious when somebody is hurt in an automobile
2 accident. I mean, there is an initial determination. Who
3 determines then, or are you determining if the doctors' bills
4 are reasonable, reasonable bills? Who is making -- how are
5 you determining that if a doctor is billing you a thousand
6 dollars for rehabilitation services? Who knows whether that
7 is right or not or should it be \$500? Do you have somebody
8 looking into that?

9 MR. LASKOW: That is the claims administration, PIMCO,
10 Pennsylvania Insurance Management Company, is doing that.
11 They are experts. That is their business.

12 REPRESENTATIVE MURPHY: Okay, fine.

13 CHAIRMAN STUBAN: Thank you, Paul and John. Would
14 it be possible if we take a break for lunch for about a half
15 hour and have you two guys back for a little while?

16 MR. PACHUTA: If it keeps going this way, I'll stay.

17 CHAIRMAN STUBAN: I think we are going to get some
18 questions for the Bureau. I know I have some.

19 MR. PACHUTA: Maybe I better not stay. No, I will
20 be happy to stay.

21 CHAIRMAN STUBAN: Will you stay on? We are going
22 to break now for lunch, and can we possibly be back at 1:30,
23 Scott?

24 (Whereupon, at 1:00 p.m., the hearing was adjourned,
25 to reconvene at 1:45 p.m., this same day.

AFTERNOON SESSION

(1:45 p.m.)

1
2
3 CHAIRMAN STUBAN: We are running past the time we
4 should have started, and we are running late so I would like
5 to get everybody in here and get seated so we can continue.

6 We still have on the stand here Paul Laskow, who is
7 the Chief Counsel for the Insurance Department, and John
8 Pachuta, who is representing the Department of Transportation.

9 And, fellows, as the afternoon session starts, I
10 would like to notify all of you people that are testifying,
11 and all of you people that are asking questions, that we
12 will be live on WBRX, the Berwick radio station, which is a
13 talk station in the area. And they will be carrying the rest
14 of the hearing here this afternoon via radio.

15 So I guess we can go on here, and who has a question
16 here? I guess we have Mike, Representative Veon.

17 Whereupon,

18 PAUL LASKOW and JOHN PACHUTA

19 having previously been duly sworn, testified as follows:

20 REPRESENTATIVE VEON: Thank you, Mr. Chairman.

21 I wanted to follow up on a couple of things that
22 Representative Lloyd said that I think are very important,
23 particularly in my district, and I am sure in a lot of other
24 districts.

25 And that is the fact that between 10,000 and a

1 hundred thousand dollars, those are the people I'm concerned
2 about. And I will get to my question in a moment, but I have
3 a lot of unemployed people in my county, 15, 18 percent, as
4 high as 20. Nobody really knows, but the problem, I found,
5 and we say that these people are well informed, are reasonably
6 well informed about the program; the problem that I found,
7 I have had many, many constituents come into my office and
8 I ask them the question, do you know to what extent you are
9 covered in your policy?

10 And some of them don't know. Some of them take a
11 wild guess and almost virtually none of them understand that
12 unless they have coverage in their policy up to a hundred
13 thousand dollars, that they are going to be personally
14 responsible in case of that loss.

15 And they are under the assumption that because they
16 are paying that \$5.00 and not understanding the threshold,
17 that they are under the assumption that they will, in fact,
18 be protected by the Catastrophic Loss Fund when that time
19 comes.

20 I guess my question to you is: Does the Department
21 recognize that situation? Do you recognize that there is a
22 problem, or do you agree that there is a problem? And what
23 suggestions might you have to better educate the people of
24 that threshold?

25 And before you answer that, it comes back to this

1 same thing about the insurance companies collecting their fee,
2 okay. If it is on that individual insurance policy, that
3 insurance agent will have to explain that to that policy-
4 holder, because that policyholder will want to know what he
5 is paying that \$5.00 for. And there is a personal explanation
6 with the opportunity to discuss the threshold.

7 It's a real problem in my district, and I know the
8 people that are unemployed, one of the first places they cut
9 is on their insurance coverage, either life insurance or house
10 insurance or auto insurance.

11 And they are cutting back. They are cutting back,
12 they are saving a few dollars here, but what they don't under-
13 stand is that possibly, in the long run, they are under the
14 assumption that they are covered.

15 MR. LASKOW: Well, again I can't endorse legislative
16 correction or anything of that sort, but I can't as well --
17 I cannot fault your logic. But there is an agent there who
18 could and must be able to explain both the premium and the
19 coverages and could collect the \$5.00. That is what you are
20 saying, isn't it?

21 REPRESENTATIVE VEON: I am saying that do you agree
22 that that is a problem? Do you recognize that? And what if
23 anything can we do now, given the fact that maybe there would
24 be no change in the short period of time?

25 I am very concerned about those that are covered at

1 \$10,000 that are unemployed, and they don't understand that
2 in the event of a catastrophic accident, they are assuming they
3 are covered; and they, in fact, are going to be personally
4 responsible for \$90,000 of coverage, and would virtually wipe
5 them out for the rest of their lives.

6 And I have a real problem with that. And he said,
7 Representative Lloyd, what is the magic number? Why \$100,000?
8 What about 10,000? And I haven't had the opportunity to know
9 the history of this legislation, being this is my first-time
10 term, haven't had the opportunity to vote, et cetera.

11 But I don't understand why that magic number, and
12 I am very concerned about protection of those people in between
13 there, and what can we do to better inform them of the chances
14 they are taking at \$10,000 versus a hundred thousand dollars.

15 What would the difference be between the two policies?
16 And, you know, all those things aren't being explained to them.
17 They don't even know what their coverage is. And I have had
18 my constituents come in and they have no idea what their
19 coverage is, and that is a fact of life we have to recognize.

20 And how can we better protect them in the process?
21 Do you recognize that there is a problem? And is there any-
22 thing we can do to improve that information or education
23 process?

24 MR. LASKOW: There are less than 200 employees in the
25 Insurance Department. I don't know how many agents, insurance

1 agents there are in Pennsylvania; perhaps Mr. Snyder, who is
2 going to testify later, can tell you.

3 But that is an information network out there, it has
4 been, who is the insurance companies who have the most
5 effective information network out there where everybody lives,
6 not in Harrisburg, Pittsburgh, Philadelphia and Erie, but
7 everywhere.

8 And they are the people who have at least a moral
9 responsibility to make the case that you are making right now.
10 We attempt -- the Insurance Department has required ICS to
11 put in an explanation pamphlet in both the first year and the
12 second year of billing.

13 It explains the extent of the coverage. But that only
14 addresses half the problem, which is it tells them where
15 coverage begins, but it doesn't tell that individual where his
16 coverage stopped, which is the problem that we are addressing.

17 REPRESENTATIVE VEON: I'd like to suggest that
18 possibly you could go back to the Commissioner, and I would
19 like to know at some future date when these hearings proceed,
20 if we can get a statement from the Department that, in fact,
21 we do have a problem here with people who don't understand
22 their liability between 10 and a hundred thousand dollars.

23 And particularly in areas of high unemployment where
24 people are cutting back on insurance and not really under-
25 standing the repercussions there.

1 That if it's possible -- and I don't know the answer
2 exactly how we may be able to improve, but I would hope that
3 we could all recognize there is a problem. And if we get --
4 maybe we can find a solution, but I really think it's a serious
5 problem.

6 Those unemployed steelworkers in my district, I know
7 when they walk into their insurance agent, not understanding
8 the implication of this new law, they just walk in, "I want
9 the basic minimum coverage you can possibly give me; I'm not
10 working, you know. I don't have the money. You just tell me
11 what it is. I want the basic, bare bones coverage."

12 Then they get the \$5.00 fund, CAT Fund bill; they
13 assume they are covered. So I would like to just suggest
14 that at some point, as these hearings proceed, if we can at
15 least come to an agreement that this is a problem, and possibly
16 we could find some way to address that.

17 And again, Representative Lloyd's question about what
18 is the magic number, why \$100,000; would you care to comment
19 on that?

20 MR. LASKOW: Like yourself, I joined the Insurance
21 Department October 1st of 1984. I don't know the history of
22 that perhaps as well as Mr. Kirschner certainly. I don't
23 know why the Legislature chose \$100,000, or \$10,000 mandatory
24 and a hundred thousand dollars maximum.

25 REPRESENTATIVE VEON: Okay. Thank you, Mr. Chairman.

1 CHAIRMAN STUBAN: Any other questions?

2 REPRESENTATIVE LUCYK: Just one more. Paul, let me
3 just follow up. I think what Bernie was asking, and maybe
4 we could get this straight -- we have three levels of where --
5 or we have three organizations involved in that CAT Fund:
6 first being the Catastrophic Loss Fund Board, right, and the
7 Insurance Commissioner is the Chairman of that Board; is
8 that correct?

9 MR. LASKOW: That's correct.

10 REPRESENTATIVE LUCYK: Then comes ICS. ICS was formed,
11 as you said, by the Insurance Federation?

12 MR. LASKOW: By the litigants in the action initiated
13 in the Commonwealth Court to upset the regulatory process that
14 would have had the insurance companies collect, yes.

15 REPRESENTATIVE LUCYK: Okay. And Frank Holczman is
16 the head of ICS?

17 MR. LASKOW: The president is Jan VanGorder. The
18 Executive Director of ICS is Frank Holczman.

19 REPRESENTATIVE LUCYK: Okay. And then we have Data
20 General, which is responsible for the billing and the collec-
21 tion of the CAT Fund or - - -

22 MR. CASPER: General Data Systems, Inc.

23 REPRESENTATIVE LUCYK; Then I guess my questions goes,
24 if we have the CAT Fund Board, and you say the ICS was
25 created by the insurance agency, well who authorized this ICS?

1 Whose decision in, you know, the state government authorized
2 ICS? Was it just the Insurance Federation got together and
3 said, "Well, here we are"? Or how did that ICS come about?

4 MR. LASKOW: It was the result of a settlement agree-
5 ment that was entered into in December of 1984 in an attempt
6 to resolve the litigation which had blocked implementation
7 of the Catastrophic Loss Trust Fund system.

8 REPRESENTATIVE LUCYK: But nowhere in the law -- there
9 was no legislative intent for this ICS. The Insurance Commis-
10 sioner, who is the head of the Catastrophic Loss Fund, didn't
11 form it. He didn't - - -

12 MR. LASKOW: He designated it by authority of the law.

13 REPRESENTATIVE LUCYK: But he did, okay. He desig-
14 nated it. All right, he designated ICS to handle the workings
15 of the fund?

16 MR. LASKOW: Collection of the charge; that's correct.

17 REPRESENTATIVE LUCYK: Well, Data General does that?

18 MR. LASKOW: As a subcontractor.

19 REPRESENTATIVE LUCYK: Does General Data - - -

20 MR. LASKOW: As the subcontractor of ICS.

21 REPRESENTATIVE LUCYK: And who chose them? Who chose
22 General Data Systems?

23 MR. LASKOW: The Insurance Collection Services adver-
24 tised for bids and received bids, and selected them under the
25 terms of the settlement agreement. The selection had to be

1 approved by the Insurance Department and PennDOT.

2 REPRESENTATIVE LUCYK: So ICS chose General Data.
3 The Insurance Commissioner, as the Chairman, is still then,
4 as I see it, if you look at a chain of command as a diagram,
5 however you want to look at it, really still is responsible
6 for the overall program, if he is the Chairman of the Board
7 of the Catastrophic Loss Fund?

8 So you know, when we say who is responsible for this,
9 who is responsible for that, it's really the Insurance
10 Commissioner as Chairman of the CAT Fund Board?

11 MR. LASKOW: Had the regulations that were first
12 promulgated taken effect.

13 REPRESENTATIVE LUCYK: That is not saying anything
14 because -- okay. He designated ICS. Then ICS is responsible
15 for all the workings?

16 MR. LASKOW: For collection; that's correct.

17 REPRESENTATIVE LUCYK: What I am trying to find out
18 is who chose -- this is like who's on first, you know. No,
19 seriously, this is a valid question, because I asked you before,
20 you know, who is responsible for publicity, who is responsible
21 for this lousy program for that.

22 And we are getting that layered effect, but there can
23 only be one captain of a ship. There is only one captain on
24 the ship. It's the Insurance Commissioner; right?

25 MR. LASKOW: Well, I think the legislation contemplates

1 a division of labor. He has the responsibility to designate
2 the entity to collect it. Being an insurance company, he could
3 no more tell it - - -

4 REPRESENTATIVE LUCYK: No, I am not saying you, but
5 isn't he ultimately responsible for the whole program, you
6 know? You can't say well - - -

7 MR. LASKOW: No.

8 MR. CASPER: I am sorry, excuse me, but just what
9 Representative Lucyk is getting to, I think what Representative
10 Lucyk is getting to is really Section 1762 of the Financial
11 Responsibility Chapter of the Motor Vehicle Code, where it
12 says that the charge will be remitted to an insurance company
13 or other party as may be designated by the Insurance Department,
14 meaning the Insurance Commissioner.

15 He designated ICS, has entered into a contract with
16 ICS. The buck would apparently come back to the Insurance
17 Commissioner because he has the responsibility.

18 My boss may say to me, "You will do this," and if I
19 mess up, you can rest assured, you can be guaranteed, that
20 the Chairman of the Transportation Committee is going to --
21 it's going to come back to him. And he will take corrective
22 action with me.

23 The same thing with ICS. They have a contract, but
24 who do they have a contract with? Who designates them under
25 the law? It's the Insurance Commissioner.

1 MR. LASKOW: It's an employer-employee relationship.
2 There's two parties to a contract.

3 REPRESENTATIVE LUCYK: That's right.

4 MR. CASPER: But if the employee messes up, the
5 employer is going to have, or should have, corrective action.

6 MR. LASKOW: It's an employee-employer relationship.
7 The Insurance Commissioner reports to the Board.

8 REPRESENTATIVE LUCYK: The contract states I am the
9 head and I can't do it, I'm the Chairman of the Board, I'm
10 responsible. But I have to hire somebody to do this, or if
11 you want to say hire or enter into a contract or whatever,
12 you know, ICS can say, you know, "I'm not responsible; the
13 Insurance Commissioner's responsible."

14 And probably where this all leads, you know, and
15 getting back to Mr. Murphy and Mr. Lloyd, how much is Mr.
16 Frank Holczman getting paid? Bernie said he wasn't; you
17 said he is.

18 What are his responsibilities handed down to him by
19 the Insurance Commissioner, and where does General Data
20 enter into it? And what it ultimately comes down to is
21 who do I call?

22 MR. LASKOW: It depends on what you want. It depends
23 -- no, seriously. The division of - - -

24 REPRESENTATIVE LUCYK: For that number that we have
25 to call, is this General Data? Then I know why we are not

1 getting through, because they just won't answer the phone.
2 They are going to say, "Heck, I don't care. I'm getting my
3 75 cents or whatever to collect this fee. I don't care how
4 many times this telephone rings, I'm not going to answer the
5 phone."

6 And if I try to get ahold of ICS, and ICS is one man,
7 Mr. Frank Holczman and a secretary, I'm sure they are not
8 going to answer the phone.

9 And then I guess I finally have to call the Insurance
10 Commissioner, and I'm sure he won't answer the phone either.
11 Or now you say you are handling a hundred calls a day; there
12 are a million calls out there that want to come in.

13 I'm trying to pin the responsibility for this whole
14 thing. It's just a terrible mess, and you can sit there and
15 tell me, "Well, ICS is responsible for this, General Data is
16 responsible for this," and if we, as a Committee, want to
17 question somebody, we can't call Data General and question
18 him because he is going to say, "Well, you know, I'm just under
19 contract to collect the fees."

20 And Bernie says Frank Holczman is not paid, you
21 say he is paid. And to me, that is just a push-off. I don't
22 see how we got the insurance industry to form something that
23 is handling this whole thing when they didn't want to handle
24 it in the first place.

25 So generally, as I see it, the chain of command goes

1 from the Insurance Commissioner, so he is the guy we have to
2 question. He is going to make the policies on this stuff.

3 CHAIRMAN STUBAN: I think, Representative Lucyk, we
4 will just instruct the Chairman of the Committee to call him,
5 and I think that is why we will have to go along with that
6 questioning. I think we are putting Paul on the spot.

7 REPRESENTATIVE LUCYK: I intend to put the spot on
8 the Chairman.

9 CHAIRMAN STUBAN: He can answer the question.

10 REPRESENTATIVE LUCYK: And I intend to find out what
11 is going on.

12 CHAIRMAN STUBAN: And I think that we will go back
13 and we will call the Insurance Commissioner and he will have
14 the answers. Is there any more questioning?

15 John, I guess you are going to be left out. There
16 doesn't seem to be many who want to ask you questions.

17 MR. KIRSCHNER: Mr. Chairman, I have an answer for
18 Representative Lloyd, at least a partial answer on one of
19 the administration's positions on some things. And I have a
20 letter here that was sent from the Governor to the Majority
21 Leader on January the 30th, 1984.

22 And paraphrasing part, just taking part out, and it
23 said the legislation creates a Catastrophic Loss Fund to cover
24 medical and rehabilitative expenses in excess of a hundred
25 thousand dollars per claimant. This, in my estimation, is one

1 of the most important features of this legislation.

2 It assures that seriously injured victims will receive
3 comprehensive coverage for medical and rehabilitative treat-
4 ment, and I will submit it for the record, sir.

5 CHAIRMAN STUBAN: Okay. Thank you, Bernie.

6 MR. KIRSCHNER: That is at least part of the admin-
7 istration's position.

8 REPRESENTATIVE LLOYD: We can assume that from that,
9 probably the administration would not support abolishing the
10 fund without something to replace it.

11 MR. KIRSCHNER: That would be my guess.

12 CHAIRMAN STUBAN: John, one question I would like to
13 ask, I guess before we excuse you. And the problem that I
14 am having, and that my staff is having now with the stamp,
15 we are having the problem of a lot of people, and you know what
16 PennDOT is, last minute; and I spend a lot of time handling a
17 lot of PennDOT's problems in my office, handling a lot of
18 PennDOT's problems.

19 And now we find out that I can buy that stamp right
20 there at the desk from PennDOT. The problem that I foresee,
21 and I would like to know how the Department and how the CAT
22 Fund is going to keep track of who paid and who didn't pay.

23 The law does say that you have to have the stamp
24 to get your registration. If we buy the stamp at the counter
25 in PennDOT, we affix it to the registration certificate, what

1 is the cost going to be now to cross-section that, and how
2 are we going to keep control?

3 The other problem that I really have is one billing
4 went to Pittsburgh, the other billing went to Philadelphia.
5 And now I can buy the stamp right at PennDOT at the counter
6 there. How in the world are they going to keep track of this
7 whole mess?

8 MR. PACHUTA: In essence, the requirement in the law
9 under -- I think it's 1763, says we have to refuse it without
10 proof of payment. That proof can be obtained anywhere, and
11 as long as it's provided on the registration document, we
12 honor it, no matter where it was; whether it was Philadelphia,
13 Pittsburgh, the local agent or the counter service.

14 We then send, and we will only process those applica-
15 tions with the proof of payment. So it's either there or it's
16 not. If it's not there, no proof of payment, the registration
17 is not issued.

18 So once we have the proof of payment, we will issue
19 the registration. When you have in possession, your possession,
20 validated registration documents, that is your evidence of
21 payment. Because we had the sticker, we also then film the
22 application and we can retrieve the application with the
23 sticker shown on it at a later date if we need to.

24 But the fact that you have validated credentials is,
25 in essence, proof that you paid it, because we could not have

1 the validated credentials without the proof of payment being
2 present.

3 CHAIRMAN STUBAN: Right, I understand that. But what
4 is the cost going to be, and who is going to provide the
5 information then? How are we going to cross-section this?

6 MR. PACHUTA: No one needs the information beyond the
7 fact that you have paid it. If later, say, you have a claim
8 and you want to be sure that you have paid, the only question
9 will be did you have a valid registration; and if you did,
10 then you must have paid.

11 If further proof is needed, we can retrieve the film
12 records to show your registration with the CAT Fund sticker on
13 this, which is serialized, which we will get from the sticker.

14 CHAIRMAN STUBAN: My problem is how to you fellows
15 that are administering the CAT Fund, now after sending a bill
16 and the billing was never returned for a stamp and we purchased
17 the stamp at PennDOT, how are you going to cross-check?

18 MR. PACHUTA: They don't need to know because all
19 they need to know is that, in fact, the registration could
20 not have been issued without it being purchased somewhere at
21 one of the outlets. They will ultimately get all the money
22 that goes with all the registrations that were issued.

23 CHAIRMAN STUBAN: So then I could say to my consti-
24 tuents, just make out a \$5.00 check along with your application,
25 and we will get it processed right at PennDOT for you. You

1 don't have to bother about sending it in?

2 MR. PACHUTA: That's correct.

3 CHAIRMAN STUBAN: And that is going to create mass
4 confusion.

5 MR. PACHUTA: Wait. The fact is that this counter
6 location you are speaking of is not actually the Department
7 of Transportation. That is employees of the collection agency.
8 We have given them space inside the Department building so
9 that allows them to sell this.

10 So you would actually go through two steps: you go
11 over and pay them \$5.00 for the sticker; then come to us and
12 present us with the evidence.

13 CHAIRMAN STUBAN: Then I could see possibly a more
14 simple way. We either let the legislative offices sell stamps
15 to their constituency, let the local banks sell stamps to
16 their constituency.

17 MR. PACHUTA: In fact, many local agencies do. Title
18 tag agencies, dealerships that purchase them in bulk and some
19 vehicle or automobile club agencies have purchased them in
20 bulk and allow them just to do that. And I think some of the
21 members of the Committee have actually done so.

22 CHAIRMAN STUBAN: Then we redeem them from that
23 agency that we set up to sell the stamps.

24 MR. PACHUTA: Provided everybody could get to one of
25 the local government outlets that we have.

1 CHAIRMAN STUBAN: I am sure the local banks would
2 handle it, and the AAAs handle it as a service to their
3 constituency. I know, I am sure my legislative office and
4 the rest of the offices would be glad to handle that stamp.
5 We really don't need that other agency.

6 MR. PACHUTA: You now are talking about six million
7 people coming to some place, you know; if you can do it for
8 the number of people.

9 MR. KIRSCHNER: Mr. Chairman?

10 CHAIRMAN STUBAN: Okay, Bernie.

11 MR. KIRSCHNER: During the drafting process of this
12 act, a plan was kicked about, the Kirschner Stamp Plan. The
13 way the Kirschner Stamp Plan worked, there were 50 stamps
14 in a book at \$5.00 a piece. Agencies would have been desig-
15 nated by the Insurance Commissioner, and that is anybody could
16 have an agency, some places that sell stamps: automobile
17 agencies, insurance agencies, and anybody that wanted to
18 bring traffic in.

19 The agent would buy the books at a five percent
20 discount, which means it would be 25 cents per \$5.00 stamp.
21 Money would come to the Department into the CAT Fund up front.
22 It would all be brought in before you even got your registra-
23 tion.

24 That money is there because you bought the stamps and
25 you bought the thing in advance. We did some little unofficial

1 poll. We found a lot of people wanted to do this. Vendors
2 would have liked to have made the quarter by just peeling the
3 stamp off, give it to them.

4 Unfortunately, the system was much too simple, and
5 was not accepted. But what you just said was exactly what
6 we were trying to do. Somebody, during the course of this
7 negotiation, remembered the stamp plan and they took the stamp
8 and put it on this billing, the kind of thing you got. That
9 is how it happened for the record.

10 I would like to know, has this plan again been
11 considered?

12 MR. PACHUTA: That bulk purchase plan is in effect
13 right now, and you can go and buy the stickers in bulk so
14 the Kirschner plan is being - - -

15 CHAIRMAN STUBAN: Now, what I think we are getting to,
16 John, now is we are now saying that if all these agencies could
17 handle these stamps, we don't need this big bureaucracy that
18 we created to handle the stamps.

19 MR. PACHUTA: What I am saying, sir, is they can now
20 handle the stamps if we wish to so that the general response - - -

21 MR. CASPER: Do they get a commission for handling
22 that, say, the banks or agencies?

23 CHAIRMAN STUBAN: A notary can charge - - -

24 MR. PACHUTA: They can charge a processing fee, but
25 it must clearly be stated to the customer that a processing fee

1 is involved.

2 CHAIRMAN STUBAN: But the thing that bothers me now,
3 if we have this agency set up and they got mailing costs
4 and everything else, you know, we are doing things that we
5 shouldn't be doing if we sell the stamps out there.

6 MR. PACHUTA: I think that is one of the reasons why
7 the billing is done on a per processing basis to the CAT Fund
8 since then if more people buy them through the agency, then
9 the payments are made to the vendor.

10 CHAIRMAN STUBAN: Since we readjourned this afternoon,
11 I would like to introduce another legislator that came in,
12 Vic Lescovitz, the western part of the state. Vic, you got
13 a question?

14 REPRESENTATIVE LESCOVITZ: John, I just want to follow
15 up on this. How do you know how the CAT Fund commission is
16 paid? Because if they are sending out the notices, are they
17 then paid the commission for sending out the notices, not
18 for distributing the stamps?

19 MR. PACHUTA: Well, what Paul addressed earlier - - -

20 REPRESENTATIVE LESCOVITZ: I'm sorry.

21 MR. PACHUTA: - - - as far as reimbursement per
22 processed item.

23 REPRESENTATIVE LESCOVITZ: I guess you have got --
24 if you are saying AAA is distributing, are they getting any
25 kind of commission for distributing these stamps?

1 MR. PACHUTA: Only whatever service charge they would
2 have on top of it.

3 REPRESENTATIVE LESCOVITZ: So they are not being --
4 unless they are being paid by the -- I can ask that of AAA.

5 MR. PACHUTA: That is why they are here.

6 REPRESENTATIVE LESCOVITZ: That is okay, Ted. I'll
7 wait.

8 CHAIRMAN STUBAN: Okay. Representative Lloyd?

9 REPRESENTATIVE LLOYD: Mr. Pachuta, we are going
10 through all this discussion to try to find a way to have a
11 better distribution of the stamps. And my suggestion is that
12 we forget about the stamps entirely; that is the better way,
13 rather than making them more convenient.

14 That we just eliminate the requirement that we have
15 that and have the money collected as part of the insurance
16 premium, and have the person self-certify that he has paid
17 that, the same as part of the self-certification that he
18 has insurance.

19 You don't -- the administration is not interested
20 in having us pass a law that would require a stamp to be
21 attached to the registration renewal showing that he has bought
22 any of the other insurances that the law mandates; is it?

23 MR. PACHUTA: As I recall the current law in regards
24 to general insurance, it calls -- asks that the Department,
25 or it says the Department can receive self-certification on

1 certain other companies. That has been acceptable to us in
2 the past, and apparently the Legislature as well.

3 So the earlier point you made in regards to the
4 double standard, once more is an absolute, you know; no failure-
5 type proof of \$5.00 payment and yet a self-certification
6 just seems to be an inequity in the law.

7 REPRESENTATIVE LLOYD: And it seemed to be kind of
8 stupid. Here we have got something that costs 3, 4, 5, 600, in
9 some cases over a thousand dollars a year worth of insurance,
10 and you are not required to do anything other than sign a
11 piece of paper saying that you have that insurance.

12 But yet, for a bloody \$5.00, you have got to get a
13 stamp and go through all the other rigamarole that has a
14 bureaucratic expense.

15 Doesn't that strike you as a little bit that things
16 are turned around, backwards?

17 MR. PACHUTA: It would seem so. I wouldn't use the
18 exact term except it was written into the law other than by
19 this body.

20 REPRESENTATIVE LLOYD: Thank you.

21 CHAIRMAN STUBAN: Mike?

22 REPRESENTATIVE VEON: John, while we are on the
23 mechanics of that, I would like to ask a couple of questions.

24 I think Representative Stuban was touching on a point
25 that I have had trouble with. If in fact we take it that my

1 office has that registration application with the \$5.00 check,
2 gets a sticker at the office in the building there, applies
3 it to the registration application and then gets this regis-
4 tration, he is saying how will that be cross-referenced to
5 these people that don't come to get bills?

6 Because I had situations where that, in fact, happened.
7 And then, you know, three weeks later they get a bill and they
8 come in my office screaming, "Hey, I thought you paid that
9 \$5.00 CAT Fund for me. Why am I continuing to get these bills?"

10 And, you know, "I didn't get a cancelled check yet,"
11 and so on and so on and so on.

12 How is that going to be cross-referenced? That I
13 have had a problem with. I don't know if anybody else
14 experienced that.

15 MR. PACHUTA: Well, really, as I understand, really
16 there has been no reason to cross-reference. Once you have
17 the valid registration document, that is your proof of payment
18 so that the second bill, or the additional bill you could
19 ignore that because you have paid it through another channel.

20 You can present that bill.

21 REPRESENTATIVE VEON: With those bills coming to them,
22 they don't get -- they are really confused. They get - - -

23 MR. PACHUTA: There is no second bill. There is no
24 dunning notice sent at this point in time. In other words,
25 once you get one bill, that is it. If you don't buy this one,

1 if you take this other course and buy a sticker, you don't
2 receive another bill for that same \$5.00. The next bill you
3 would get is for the next registration renewal, giving you
4 the opportunity to pay it by mail if you so desire.

5 REPRESENTATIVE VEON: So perhaps the bill that these
6 people got was for the \$5.00 that they paid in advance of
7 getting this bill. They are only getting the one bill?

8 MR. PACHUTA: They would get the back-year bill that
9 is due for the one year, and they would get one for the '85
10 registration year. There are no other bills sent.

11 REPRESENTATIVE VEON: Through the rest of the year?

12 MR. PACHUTA: That's correct, except for another
13 vehicle. Now, that sometimes happens.

14 REPRESENTATIVE VEON: Right.

15 MR. PACHUTA: But not for one vehicle.

16 REPRESENTATIVE VEON: The other question, John, would
17 be is there any protection over what a local agent can charge
18 for a stamp? For example, I had a person who waited until the
19 last minute, as many of them do, and understood that a stamp
20 was required to get the registration application.

21 And went to a local agent and, I can't remember if
22 they charged 8 or \$10.00 or whatever it was. In fact, knew
23 the situation and knew they needed it, and charged them,
24 as I said, 8 or \$10.00, something to that effect.

25 Is there any protections, or are we going to provide

1 any protection for that type of thing happening?

2 MR. PACHUTA: As I recall the regulations and so
3 forth for the sale and distribution of these, there is no
4 cap or upper limit on the service charge. The only stipulation
5 is that the service charge be clearly stated as a separate
6 item.

7 Hopefully there will be enough outlets that you could,
8 if necessary, "Well, that is too much; I will just go down
9 the street and get it someplace else." You always have the
10 option of mailing them, of course, paying only the \$5.00.

11 REPRESENTATIVE VEON: That is my next question. But
12 in the meantime, while this confusion is going on, and in
13 fact a lot of people don't understand what is happening, do
14 you think that possibly the Department, your Department or
15 Mr. Laskow's Department, could take a look at some sort of a
16 cap on what people can be charged for a processing fee, you
17 know?

18 I think it's unfair for those people who don't under-
19 stand the system, that they will end up being charged 8 or
20 \$10.00 for a stamp that they could pay five for.

21 Which brings me to the next question. Those folks
22 who did wait until the last minute, okay, have sent in their
23 bill, have sent in their \$5.00 check or bill; now it comes to
24 the end of the month, their registration expires tomorrow.
25 They haven't received their stamp back.

1 Many of them want to know if they can buy another
2 stamp and get a refund from the fund for that stamp that they
3 are applying now. In other words, their registration expires
4 tomorrow. Their card is not valid without the stamp. The
5 stamp is not back from wherever, Pittsburg, Philadelphia.

6 Now they have a problem where their registration is
7 no good tomorrow, they can't drive their car. They are willing
8 to buy another \$5.00 if they can have some reasonable assurance
9 that they can get a refund.

10 My research on this so far, I have been told there is
11 no process for a refund at all.

12 MR. PACHUTA: I don't believe that there is a refund
13 process. And I don't want to coin an expression that has been
14 used so often today, that is not my area of responsibility,
15 but truly it's not.

16 REPRESENTATIVE VEON: Who would - - -

17 MR. PACHUTA: I think potentially there is another
18 use for that, and that is that their neighbor next door could
19 use it, or they could use it on their other vehicle. There is
20 nothing that ties it to this particular vehicle, but it is
21 \$5.00, and it is tied up, and to some people, that is a lot
22 of money.

23 REPRESENTATIVE VEON: Plus the fact that, you know,
24 it's just one more thing. Well, your neighbor could use it.
25 It's too much for people to understand, to handle it one time

1 so who can we address the question to as to whether there can
2 be a refund process set up for these people who walk into my
3 office on the last day or next to last day and cannot drive
4 two days later, and have to go to work and they don't have a
5 valid registration, or the next week or whatever it is that
6 the time frame may be?

7 But I think we have a real problem along those lines.

8 MR. PACHUTA: I think if you wanted to say for an
9 unused sticker, a refund would be provided, that would be
10 administratively, and perhaps in regulations, decided through
11 the Insurance Department.

12 The physical capability to do so would have to be
13 discussed with the contractor, whether they would be physically
14 able to take a return of an unused sticker and generate a
15 check to the right person for the repayment. So just to - - -

16 REPRESENTATIVE VEON: We are discussing applying this
17 the next week for those people who end up in the last week
18 waiting until the last minute. They virtually are going to
19 end up with invalid registration because of that process we
20 have set up for the sticker.

21 MR. PACHUTA: Potentially, yes; yes, sir.

22 REPRESENTATIVE VEON: And it seems to me at some
23 point we have to address this, because I think we are talking
24 about hundreds of thousands of people. I just get dozens
25 in my office, but I'm sure the other offices experience the

1 same thing.

2 So I would like if at some point, as these hearings
3 proceed, also for us to address that, your Department or the
4 Insurance Department, to see how we can do this.

5 MR. LASKOW: Representative, I don't know whether it
6 was through your efforts; for some reason this problem has
7 come to the attention of the Insurance Department. And we
8 have engaged the subcontractor GDS in discussions of how we
9 can develop a mechanism for making a refund.

10 There is some difficulty because although GDS can
11 collect money, they don't have the authority to disperse the
12 funds or the CAT Fund. That is a fund under the Commonwealth.

13 But they have the data as to who should get a refund.
14 So we are in the process now of trying to develop it under
15 the laws of the Commonwealth as to auditing and dispersement
16 of funds, a mechanism for GDS to make refunds, or perhaps the
17 CAT Fund itself making a refund.

18 But it's not a problem that is being ignored, but
19 it does take a little sorting out.

20 REPRESENTATIVE VEON: So then we can agree that we
21 need to address here, that there should be some protection
22 over the cost of the sticker that an agent provides in a local
23 area. We could agree there ought to be some consideration
24 given to a refund process, because we are not only telling
25 these people you have to pay the \$5.00, we are in effect

1 telling them you better pay it by such and such a date or
2 your registration is not going to be back in time to be valid.

3 So we have not only, you know, put this burden on
4 them but they have to do it in a certain time frame in order
5 to make the whole thing work right.

6 And I guess that leads to my last question, and maybe
7 it would be better to ask the collection agency, and that is
8 exactly what is the turnaround time? By the time someone
9 actually -- you get a check there in the Department and as
10 the sticker is sent out back to the constituent for the
11 registered vehicle, would that question be better addressed
12 to the agency, collection agency?

13 MR. LASKOW: I can say the Department negotiated
14 a very tight turnaround in the issuance of the stickers.

15 REPRESENTATIVE VEON: What is your understanding as
16 to the turnaround time?

17 MR. LASKOW: From the time the check clears - - -

18 REPRESENTATIVE VEON: Clears the bank or - - -

19 MR. LASKOW: Right.

20 REPRESENTATIVE VEON: It has to be into the Department
21 into the collection agency to clear the bank, and then the
22 collection agency has some computer system wherein they know
23 it has cleared the bank, and at that time they are sent a
24 sticker.

25 MR. LASKOW: It's received directly by the bank to

1 minimize the time it takes to know whether it's a good check
2 or bad check.

3 REPRESENTATIVE VEON: It's received directly by
4 the bank. You mean it's sent to Philadelphia and then that
5 office sends it directly on to the bank?

6 MR. LASKOW: No. If you put it in the envelope,
7 that goes directly to a bank lock box, so there is no physical
8 transfer of money from GDS to a bank. It's at the bank when
9 it's received so it's the absolutely minimum amount of time
10 in turnover clearing.

11 As soon as it clears and we know that it is a good
12 check, GDS knows, the information is wired to GDS the same day.
13 And they are required, under the contract, to issue the sticker
14 within 48 hours, two days.

15 REPRESENTATIVE VEON: So the Department's understanding
16 is that that process should take 48 hours from the time that
17 check is received at the bank?

18 MR. LASKOW: No, from the time that check is cleared
19 by the bank. From the time you know that is a good check.

20 REPRESENTATIVE VEON: So do we have any idea of the
21 length of time of that process within the bank?

22 MR. LASKOW: No. I think that question would be
23 better addressed to GDS.

24 REPRESENTATIVE VEON: Okay. So obviously we have --
25 I think, I hope we understand that we have a problem there.

1 Turnaround time is something we have to address at some point
2 in this process, because again the burden is not only to pay
3 but to do so at a certain amount of time or your vehicle will
4 not be valid.

5 And I have too many people in my office now that are
6 riding around with unregistered vehicles. They didn't get
7 their CAT Fund sticker in time. It's a problem we are going
8 to have to do something about. Thank you, Mr. Chairman.

9 CHAIRMAN STUBAN: Okay. Any other questions? We
10 will thank - - -

11 MR. KIRSCHNER: Mr. Chairman, I have one. I do not
12 believe they answered that question on claims settlements.

13 Have any claims been settled to date? Of the 33 million
14 dollars that have been collected, has any money been dispersed
15 in payment of claims?

16 MR. LASKOW: I don't have the exact figures on the
17 number of claims processed, but a substantial amount of money
18 or claims have been processed for which the paperwork is in
19 the Commonwealth system for issuance of a Commonwealth check
20 from the fund.

21 Those checks, which as I understand it takes as much
22 as two or three weeks to get a check out of the Commonwealth,
23 so there are processed claims which are in the -- really are
24 in the pipeline, and there are checks to issue no later than
25 the middle of next week. That is the anticipation that the

1 first checks, the actual money to the providers, will be
2 delivered next week.

3 MR. KIRSCHNER: Thank you. That answers my question.

4 REPRESENTATIVE LUCYK: One more question.

5 CHAIRMAN STUBAN: Representative Lucyk?

6 REPRESENTATIVE LUCYK: How about counterfeiting the
7 stamps? Have you thought about that?

8 MR. PACHUTA: The examination of the stamp by the
9 Department, as far as -- is really one of presence only. Now,
10 they are serialized, you know. We could investigate, if need
11 be, after the fact.

12 That validation is one of visual validation by an
13 operator: it's there or it's not. We have gotten all kinds
14 of stickers in place of the CAT Fund sticker too: Mr. Yuck,
15 the whole thing.

16 But so far we don't seem to have identified that as
17 a problem. However, as to your suggestion, I'm sure someone
18 will try it out.

19 MR. CASPER: Perhaps we should suggest Mr. Yuck as the
20 logo for the CAT Fund sticker.

21 CHAIRMAN STUBAN: Well, I would like to thank Paul
22 Laskow and John Pachuta for testifying. We appreciate your
23 cooperation and thank you for taking your time before the
24 Committee today.

25 Our next person to offer testimony is Mr. Robert J.

1 Middleton of the Pennsylvania AAA Federation.

2 Whereupon,

3 ROBERT J. MIDDLETON

4 having been called as a witness, testified as follows:

5 CHAIRMAN STUBAN: And I'm glad to see AAAs are selling
6 the CAT stamps. And as a card-carrying member of the organi-
7 zation, John, I want to say your people out there in the
8 field are doing a good job, and we appreciate that they have
9 taken another effort to help our constituency in obtaining
10 the stamps and everything else, so we appreciate that.

11 MR. MIDDLETON: Thank you, Representative Stuban.
12 I would like to say here with me today is Mr. Robert Reese
13 sitting behind me. He is the manager of the Bloomsburg
14 Division of the Valley Automobile Club. If we need anyone
15 to talk to him, if you have any questions about how his club
16 handles the sticker, you can ask him.

17 CHAIRMAN STUBAN: Okay. Do you want to sit aside
18 Robert up here? Since he represents my district, I will give
19 him that courtesy to sit up at the desk.

20 MR. MIDDLETON: Okay. Thank you.

21 CHAIRMAN STUBAN: Go ahead, Robert.

22 MR. MIDDLETON: Mr. Chairman, thank you. As has been
23 said, my name is Robert Middleton. I'm here on behalf of the
24 Pennsylvania AAA Federation, and am public affairs director
25 for the Federation. And our organization represents the 31

1 local AAA clubs throughout the Commonwealth, whose combined
2 membership is now over 1.8 million motorists.

3 The Catastrophic Loss Trust Fund, or CAT Fund, is a
4 source of great concern to us as the state's leading motoring
5 organization. The basic problem is not the purpose of the fund,
6 with which we have no quarrel, but with the method of collec-
7 tion; that is, having a separate entity, Insurance Collection
8 Services, Incorporated, to collect the \$5.00 fee. This method
9 is confusing, cumbersome and inefficient.

10 There was so much hue and cry about this by the time
11 of our annual meeting in late June, that our delegates unani-
12 mously adopted a resolution in support of House Resolution
13 132 on investigating the CAT Fund.

14 On June 28, you and all other members of the Legislature
15 were sent copies of this and the other AAA resolutions from
16 this meeting with a letter from our president, John Donovan.
17 A copy of the resolution is attached to this testimony.

18 Billing by a separate collection system, poor prepara-
19 tion of the public for an additional second billing for
20 vehicle registration renewals due September 30th and thereafter,
21 and general lack of understanding all have made it difficult
22 for the motoring public to accept the CAT fee collection
23 system.

24 We know that during the summer, PennDOT received
25 tens of thousands of registration renewal applications without

1 the CAT fee sticker attached. This is indicative of the lack
2 of understanding of the CAT Fund system and the need for a
3 better system.

4 The Pennsylvania AAA Federation questions whether it
5 might not be better for all concerned if the CAT Fund fee
6 were collected by the Department of Transportation. Doing it
7 this way seems to be the only means to be sure that the fee
8 would be paid every year for each and every vehicle on the
9 road.

10 You would not even have to change the law much to do
11 this. A simple change of language in Section 1762 is basically
12 all that would be needed. PennDOT does have the capacity
13 to collect the fee, and their spokesmen have said at past
14 hearings that the Department could handle it.

15 This would eliminate all the extra billing, extra
16 postage, extra paperwork and extra computer time involved with
17 ICS. The fund itself could remain as it is, as managed by a
18 Board of Directors, to be a source of help for those with
19 very serious accidents involving medical/rehabilitative
20 expenses above \$100,000.

21 It might be instructive to mention at this point how
22 the State of Michigan operates its CAT Fund. To our knowledge,
23 this is the only other state that has a mechanism somewhat
24 like our CAT Fund.

25 In Michigan, as directed by the Insurance Code, they

1 have set up an unincorporated, non-profit association called
2 the "Michigan Catastrophic Claims Association."

3 All companies selling auto insurance in the state must
4 belong to this, and it covers all of an individual's catastrophic
5 medical costs over \$250,000 up to an unlimited amount. This
6 plan has been in effect since 1978.

7 The Association assesses all the insurance companies
8 for each car they insure, and the money from this source goes
9 into the Association's fund, which is administered by all
10 member companies.

11 Each member company pays into it an amount based on
12 "earned car years," or the total number of vehicle months of
13 insurance provided for the cars they insure. The amount per
14 car started out at \$5.00 per year, as in Pennsylvania. It
15 then went up to \$6.00 and is now at \$12.00.

16 The mode of operation does not involve the individual
17 vehicle owner in making a small, additional catastrophic
18 insurance payment to anybody. Instead, the companies and the
19 Association take care of it.

20 Even if the \$12.00 is added to the insured person's
21 premium bill, he still does not have to deal with it in the
22 clumsy, complicated way we have developed here with our CAT
23 Fund stickers and separate billing by a special collection
24 agency to each vehicle owner.

25 If any of you are interested in studying the Michigan

1 plan for possible adoption here, I have brought along a copy
2 of the law and the Association's plan of operation, and will
3 be glad to share it with the Committee. This might be a good
4 alternative to having PennDOT be the collection agency. I
5 have it right here for you.

6 MR. CASPER: Thank you very much.

7 MR. MIDDLETON: This leads to the related question
8 of the whole range of needed liability and medical insurance
9 at lower levels. What about the requirement for first-party
10 minimum medical coverage of \$10,000? What about the liability
11 requirement of \$15,000 for injury to one person, \$30,000 for
12 injury to two or more, and \$5,000 for damage to another
13 person's property?

14 It is not mandatory under the law to prove these
15 coverages to get one's car registered, but it is necessary,
16 in the case of suspension, violation or accident to prove
17 financial responsibility with either this minimum insurance
18 coverage or make "other reliable financial arrangements"
19 acceptable under the law.

20 The CAT fee is the only compulsory element of this
21 law in terms of prerequisites for vehicle registration. Having
22 the other coverages just discussed is necessary only after the
23 fact, so to speak.

24 We have been told that only approximately one percent
25 of all the injuries suffered in auto accidents are of a

1 catastrophic nature; that is, costing in the range above
2 \$100,000 for medical expenses.

3 Ironically, it is to take care of this one percent
4 that we have developed the only truly compulsory insurance
5 feature in the whole Financial Responsibility law.

6 In other words, we are requiring proof of payment
7 for just the tip of the iceberg of the total insurance package.

8 We have no affection for the ICS collection system.
9 Surely we can do away with this and still have a viable
10 auto insurance system.

11 The Pennsylvania AAA Federation strongly opposed the
12 repeal of the no-fault law because of our belief that its
13 requirement for mandatory minimum insurance coverage, and its
14 assurance of prompt payment, regardless of fault, were good
15 features.

16 We still hold to the concept of a no-fault system,
17 but with safeguards built into it such as a realistic tort
18 liability threshold, a cap on medical and rehabilitative
19 benefits, and prohibiting owners of uninsured vehicles from
20 collecting from an assigned claims plan. Unfortunately,
21 however, we lost the battle to retain this law.

22 In conclusion, let me say that the Pennsylvania AAA
23 Federation greatly appreciates the aim of House Resolution 132:
24 to examine the creation, operation and administration of the
25 CAT Fund.

1 We strongly encourage the General Assembly to take
2 whatever steps are necessary to simplify the collection system
3 so that the CAT fees are no longer collected by an outside
4 agency like ICS.

5 Now, if you have any questions, I'll be glad to try
6 to answer them.

7 CHAIRMAN STUBAN: Thank you, Robert. Anybody have
8 any questions? Representative Lloyd.

9 REPRESENTATIVE LLOYD: I would like to say, Mr.
10 Middleton, that I think you have raised some very valid points.
11 I don't think that having PennDOT collect is the best solution,
12 but I would agree that it's better than what we are doing now.

13 The Michigan plan, I think, is one which is very
14 appealing, and is somewhat consistent with what I was suggesting
15 earlier. Now, we are going to make sure that I understand the
16 Michigan plan.

17 Would I be correct that under the Michigan plan, the
18 insurance companies presumably pass along whatever their
19 assessment - - -

20 MR. MIDDLETON: Yes.

21 REPRESENTATIVE LLOYD: - - - is for this fund?

22 MR. MIDDLETON: Right.

23 REPRESENTATIVE LLOYD: That shows up maybe not as a
24 separate line item on my insurance premium, but that shows up
25 somewhere. It's built into their cost - - -

1 MR. MIDDLETON: Right, built in.

2 REPRESENTATIVE LLOYD: - - - of what they charge their
3 customers.

4 MR. MIDDLETON: Yes, sir.

5 REPRESENTATIVE LLOYD: Basically, if we are to attempt
6 the Michigan plan, we would be having the insurance companies
7 collect it, and we would get the state out of the insurance
8 business entirely. Would that be correct?

9 MR. MIDDLETON: Yes, that's correct, right.

10 REPRESENTATIVE LLOYD: Does your organization have a
11 preference as to whether we should do something such as the
12 Michigan plan, or whether we should do it through PennDOT?

13 MR. MIDDLETON: We don't actually have a preference.
14 The powers that be suggested that I present both alternatives
15 in the testimony: either the Department of Transportation
16 or the alternative like the plan which is the Association of
17 companies.

18 REPRESENTATIVE LLOYD: Okay. I thank you.

19 REPRESENTATIVE LUCYK: The only problem is that in
20 Pennsylvania, the insurance companies would charge the customers
21 50 bucks to turn over 12 to the Legislature, and then when
22 the guy says, "My insurance policy went up \$50.00," he says,
23 "Call your legislator."

24 MR. MIDDLETON: I can't handle that one.

25 REPRESENTATIVE LUCYK: Well, that is what would happen.

1 MR. MIDDLETON: They should speak for themselves about
2 that, Mr. Lucyk.

3 CHAIRMAN STUBAN: Bernie?

4 MR. KIRSCHNER: Bob, I don't know how familiar you
5 are with the Michigan plan, but if an uninsured person is
6 catastrophically injured -- I am talking about a pedestrian
7 who does not have insurance and who has not paid a premium --
8 in the event that they are catastrophically injured, under the
9 Michigan law, would they have coverage?

10 MR. MIDDLETON: Yes.

11 MR. KIRSCHNER: They could collect from the Association?

12 MR. MIDDLETON: I noticed in reading through this,
13 there is some coverage for people who don't have coverage.

14 MR. KIRSCHNER: Some coverage or all coverage would
15 just be the same. I gather they get the same benefits?

16 MR. MIDDLETON: Are entitled to benefits from the plan.

17 MR. KIRSCHNER: Because under our Pennsylvania plan,
18 everybody would be covered with the exception of those people
19 who in effect were scofflaws, who did not carry -- who did not
20 have financial responsibility, and did not contribute to the
21 CAT Fund and they own an automobile.

22 And as I understood the Michigan law, they would not
23 be adequately covered if they were -- if they did not contri-
24 bute to the fund themselves. I'm not familiar with it; I
25 haven't studied it.

1 MR. MIDDLETON: I don't know the answer to that,
2 Bernie. They have just not -- the law provides for coverage
3 of persons who don't own an automobile but who are injured in
4 an automobile accident, a pedestrian or whatever.

5 MR. KIRSCHNER: Thank you.

6 CHAIRMAN STUBAN: Thank you, Bernie. Anybody else
7 with any questions? Can we get an update on how you are
8 handling the CAT Fund sticker, Bob, the local AAA? We have
9 Mr. Reese from the local AAA.

10 MR. REESE: Mr. Chairman, it's very simple. It's
11 been an advantage to the AAA. I'll preface my remarks with
12 saying that, because I would have to be candid if I didn't
13 mention that it's helped membership.

14 If you are a member of AAA and you come into the local
15 office or our office in Wilkes-Barre and you want to purchase
16 a CAT Fund sticker, it's \$5.00. There is no additional pro-
17 cessing and services cost.

18 If you are not a member, there is a \$2.00 service fee.
19 If you wish to join at that time, you may do so to eliminate
20 the fee.

21 So it has been an inducement to join. And I would be
22 remiss if I didn't admit it's been a benefit to the AAA
23 organization. And it would probably benefit many other or-
24 ganizations.

25 One thing we have noticed with the Pennsylvanians

1 who come in and say, "I haven't received my CAT Fund sticker
2 and my registration is going to expire in three days," it's
3 a sigh of relief because we can put it on quick delivery, give
4 them the CAT Fund sticker, send it down and have it back
5 usually in three days. And to them, eliminating that frus-
6 tration is worth every penny of the service fee.

7 CHAIRMAN STUBAN: Anybody else got any questions?
8 Vic, you got a question?

9 REPRESENTATIVE LESCOVITZ: Yes. It's still \$5.00 a
10 sticker?

11 MR. REESE: It's \$5.00 for the CAT Fund sticker.

12 REPRESENTATIVE LESCOVITZ: Do you know your billing
13 from the CAT Fund? How much do you - - -

14 MR. REESE: \$5.00 full amount. We pay full amount, yes.

15 REPRESENTATIVE LESCOVITZ: I see.

16 MR. REESE: Yes, we pay full amount, and if you are
17 not a member, we charge you \$2.00 for the service. But the
18 elimination of the frustration is worth every penny to these
19 people, because they are frustrated.

20 CHAIRMAN STUBAN: Any other questions?

21 MR. CASPER: Just one quick question. I was in con-
22 sultation with some members here, Bob. The Michigan law, the
23 insurance companies rebate the amount to the state directly?

24 MR. MIDDLETON: Yes, the company pays.

25 MR. CASPER: Fine. And you would expect them to

1 pass it on. What about -- you might have answered this and,
2 as I say, I was in consultation with the Committee. If you
3 have the insurance companies in Pennsylvania -- I remember
4 something in the whole idea of insurance companies were
5 discussing this, and they brought up that there would be a
6 very big problem with uninsured motorists, because obviously
7 insurance companies couldn't pass on a rebate from an uninsured
8 motorist. How does that work in Michigan? Do you have
9 knowledge of how that works?

10 MR. MIDDLETON: Scott, I don't have the details of
11 it. As I was saying to Bernie, it's covered in the law here,
12 and it talks about -- somewhere in there it talks about pro-
13 viding security for people who are not motorists.

14 MR. CASPER: Perhaps we can call Michigan and they
15 can answer that.

16 MR. MIDDLETON: There is also a copy of a letter from
17 the individual who is the vice president of the AAA of
18 Michigan and the automobile club of Michigan insurance group,
19 who has -- and I'm sure his name and phone number are there.

20 MR. CASPER: Great. Thank you very much.

21 CHAIRMAN STUBAN: We want to thank both of you for
22 testifying and we appreciate your taking your time here before
23 the Committee, and thanks again. Thank you very much.

24 MR. REESE: Thank you.

25 CHAIRMAN STUBAN: Our next person to testify will be

1 William Titelman, Esquire, the legislative counsel for the
2 Pennsylvania Trial Lawyers Association. We have moved him
3 up here a peg because he has got another commitment here
4 this afternoon, and we are trying to accommodate him.

5 Whereupon,

6 WILLIAM A. K. TITELMAN

7 having been called as a witness, testified as follows:

8 MR. TITELMAN: I appreciate that very much. I have
9 some copies of my statement for the Committee, and I also left
10 Harrisburg just after the Senate Banking and Insurance Committee
11 meeting on this insurance, and brought copies of their report
12 for everyone on the Committee. So these can perhaps be - - -

13 MR. CASPER: Here, I can help you.

14 MR. TITELMAN: - - - passed along to save some time.

15 CHAIRMAN STUBAN: Okay, William.

16 MR. TITELMAN: Thank you, Mr. Chairman. I'm not going
17 to read all of my statement, but I'm going to get into a
18 good bit of the problem.

19 I don't need to tell you a lot about the fund; you
20 have heard of it. The \$5.00 goes to provide auto accident
21 victims with a one million dollar medical and rehabilitation
22 expense benefit. It is a no-fault fund.

23 Contrary to statements made -- I remember hearing
24 Representative Wilson telling me that this was a pot for
25 lawyers. This is not a pot for lawyers. Lawyers have no

1 stake in the Catastrophic Loss Fund; victims do, your most
2 catastrophically injured victims.

3 While it is true that only one percent of all accident
4 victims will ever require medical and rehabilitation expenses
5 in excess of a hundred thousand dollars, those expenses amount
6 to ten to 15 percent of the entire medical costs for auto
7 accident-related injuries. So that very small member of
8 victims accounts for an inordinately large percentage of the
9 total health care costs required for all automobile accident
10 victims.

11 It's a million dollar benefit. It's not one million
12 dollars less a hundred thousand dollars, as has been often
13 referred to in the press.

14 Not only that but it's really, in many respects,
15 essentially an unlimited benefit because of the ability written
16 into the fund for the Board, CAT Fund Board, to provide an
17 annuity for the victim in the form of a structured settlement,
18 which would pay medical bills and could exceed a million dollars.

19 In other words, let me explain. Four hundred thousand
20 dollars, present value of a million dollars, could be invested.
21 Say it yielded \$40,000 a year. For a victim who was 20 years
22 old and had a 50-year life expectancy, \$40,000 times 50 years
23 is two million dollars.

24 And yet it would be cost effective for the fund because
25 the fund isn't spending a million to buy it for \$400,000 to

1 buy two million dollars in benefits over the lifetime. That
2 is a very innovative feature in that fund.

3 The fund was designed to provide a replacement for
4 the upper end of unlimited medical coverage, which every
5 motorist was required to buy under the old no-fault law. It
6 need not be -- you need not own an automobile. In other
7 words, every single Pennsylvanian is eligible. The only
8 exception would be the person who owned a vehicle and failed
9 to pay the \$5.00 charge.

10 It's estimated that 200 Pennsylvanians will be injured
11 so severely they will require benefits from the fund. And
12 the current CAT Fund figures would bear out that number.

13 The CAT Fund, by the end of August, I had received
14 notice of 175 potential claims. The average total cost of
15 medical and rehabilitation services for those catastrophically
16 injured is more than \$400,000.

17 The first hundred thousand dollars will come from
18 other sources. Anything above the first hundred thousand
19 dollars comes from the CAT Fund.

20 The CAT Fund is non-profit. ICS is a non-profit cor-
21 poration. The officers of ICS are not paid but serve as
22 volunteers.

23 The Chairman is the Insurance Commissioner, appointed
24 by the Governor. The Governor appoints all four public
25 members. There are four other members, one each from the

1 Majority and Minority Caucuses of the House and Senate.

2 As a governmental entity, it is subject to audit
3 by the Auditor General. All of its meetings are open to the
4 public under the Sunshine Law. And as I pointed out, since
5 the fund provides a no-fault benefit, a no-fault medical bene-
6 fit, paid very much like your Blue Cross-Blue Shield, victims
7 should rarely, if ever, need an attorney to obtain the benefits.

8 Thus, virtually 100 percent of the money received,
9 less the costs of collecting the \$5.00 charge, will go to
10 the health care providers who provide the services that these
11 catastrophically injured victims require.

12 After the program was enacted, there was a dispute
13 over who should collect the \$5.00 charge. Insurance companies
14 argued that the cheapest and most efficient method of collec-
15 tion was PennDOT in conjunction with the annual vehicle
16 registration renewal.

17 The insurance companies contended that if they were
18 required to collect the charge in conjunction with insurance
19 policy renewals, it would require over 200 companies to perform
20 the costly reprogramming of more than 200 different and incom-
21 patible computer systems.

22 Further, there would be no efficient way to coordinate
23 this with registration renewals in order to insure full com-
24 pliance on the part of all motorists, even the uninsured.

25 I might interject here, that has always been the problem

1 with compulsory insurance laws. Compulsory insurance is,
2 unfortunately, has never been able to be effectively enforced,
3 because the only way you could do it would be to collect
4 the insurance premium with the registration fee.

5 Any other way, you are collecting with two different
6 dates. Your policy renewal date differs from your registration
7 renewal, and you get into the after-the-fact enforcement,
8 which is what every state must live with, after-the-fact
9 enforcement.

10 And we have heard testimony on this both in the
11 Commonwealth Court record and in front of the Independent
12 Regulatory Review Commission that in dealing with this regu-
13 lation, it costs on the average a hundred dollars per case.

14 Now, I think everybody would think it would be
15 ridiculous to spend a hundred dollars to collect \$5.00, and
16 also it would be extraordinarily expensive for the Commonwealth
17 to go after every uninsured motorist in order to get full
18 enforcement.

19 Furthermore, the problem with compulsory insurance
20 has always been that the more you are required, the more
21 people are going to be unable to afford it.

22 Now, the state enacted a requirement, a legal require-
23 ment: you have got to be insured. There are other states
24 that have ruled, quite correctly, that any time the state
25 requires you to buy insurance, you have turned the insurance

1 industry into an arm of the state. It's called the state
2 actions. They are in the law, and then what you end up
3 having, you are going to have some person walk in, some
4 person, let's say, from Philadelphia who couldn't afford
5 the requirements that the state established, and is going to
6 say, "I want my benefits; I can't afford it. The state said
7 it was compulsory I had to buy this insurance coverage,
8 this level, not this level, and I couldn't afford it. I
9 want my benefits."

10 And the court is going to say, "You are doggone right."
11 The state, if they were going to put what amounts to a tax,
12 has a duty to make it affordable.

13 Now, how are we going to make it affordable in
14 Philadelphia? Well, we are lowering it. We are going to
15 lower the rate in Philadelphia and raise it everywhere else.
16 I don't think anybody anywhere else in Pennsylvania, that
17 they would be very happy with such an outcome.

18 That is the problem, and forgive me my digression
19 into that, but the uninsured motorist states have spent
20 millions of dollars trying to do it for over 40 years. And
21 frankly the reason the compulsory insurance was developed
22 back in the thirties and forties was because first-party
23 benefits, almost no one had them. It was a new concept.

24 And not only this, but uninsured and under-insured
25 coverages didn't exist, and our insurance system has progressed

1 from that. Today, I buy insurance to protect myself. I
2 buy uninsured coverage to protect me from the uninsured
3 motorist.

4 This uninsured motorist may not be a Pennsylvania
5 citizen; he may be from another state, another country. But
6 I buy under-insured to protect me and my family from the
7 person who couldn't afford to buy higher levels of coverage.
8 And I buy first-party benefits.

9 I probably have them already from work, through
10 my health insurance. Why should I be -- which is tax-free,
11 it's a tax-free benefit. Why should I be forced, by the
12 state Legislature, to buy those benefits again with my
13 taxable income?

14 So you get all those circumstances. And I don't want
15 to get too far afield into the whole theory of the rest of
16 insurance, but some people here have said some very incredible
17 things.

18 The AAA -- and I must digress to respond to that.
19 AAA has come here and told you about the Michigan plan.

20 The problem with doing the Michigan plan is again,
21 if the person is uninsured, they haven't paid into the fund.
22 And the result is that insurance policyholders are paying
23 to carry those people. The rates -- it forces the rates up.

24 The beauty of the CAT Fund mechanism, and it was
25 designed and the purpose of it, was to assure that everyone

1 would pay with no exception to keep the cost down, whether
2 it's done by PennDOT or another mechanism.

3 Because any enforcement through the insurance mechanism
4 is, by its very nature, after-the-fact enforcement. It is
5 not possible to do up-front enforcement, except if you were
6 to require the person to pay his annual -- his total annual
7 insurance premium at the time of his vehicle registration
8 through PennDOT. I don't think anybody would want to go for
9 that.

10 Then the AAA says that the CAT fee is the only com-
11 pulsory element of the law. That is not true. Financial
12 responsibility is compulsory.

13 You have a choice. You can self-insure, you can buy
14 insurance. But financial responsibility is compulsory. The
15 difference is that the enforcement is after the fact for
16 financial responsibility, and it's up-front for the CAT Fund;
17 only difference.

18 As I said, the only way to make it up front would
19 be to do it through PennDOT. I pointed out that I talked
20 about only one percent, but that one percent of the victims
21 consumes an enormous amount of the total medical bill for
22 auto accident victims.

23 Also, they say they opposed repeal of no-fault. Well,
24 they opposed the repeal of the no-fault law, but let me
25 assure this Committee that we still have a no-fault law in

1 Pennsylvania. In fact, the level of required no-fault benefits
2 in Pennsylvania is among the highest in the United States.

3 There are only arguably three or four other states
4 that require motorists to purchase a higher minimum level
5 of no-fault benefits than does Pennsylvania.

6 There is also a restriction on lawsuits in the new
7 auto insurance law. It doesn't have a Madison Avenue -- like
8 a threshold, but a threshold creates a target for abuse. The
9 conclusion of pleadings and proofs in our no-fault action,
10 a tort action, has the same effect as a threshold.

11 Unfortunately, part of the problem with the AAA --
12 and I have a lot of respect for Bob Middleton -- is that
13 the AAA insurance committee is controlled by insurance agents,
14 and some of the AAA offices around the state are involved in
15 selling insurance. So they do have a bit of a conflict of
16 interest with their members.

17 And I happen to be one, and I'm proud to be a member.
18 In other respects, I think they provide a good service.

19 So we have had -- we get back to the fact we had
20 this dispute and there was a court action as a result of
21 the dispute. With the clock ticking, it was necessary for
22 people to come up with some kind of resolution, because there
23 was an enormous delay that was beginning to take place as
24 a result of this dispute.

25 So what was the compromise they agreed upon? They

1 agreed that the insurance industry would set up a separate
2 entity, a single entity instead of having 200 different
3 entities, and they would have the use of PennDOT's tapes,
4 and they set up the system that we now have.

5 Frankly, it's a system that could have worked very
6 well pretty simply, except for that doggone stamp requirement.
7 Who came up with that, I don't know, but - - -

8 REPRESENTATIVE LUCYK: Here we go.

9 MR. TITELMAN: If I ever do - - -

10 REPRESENTATIVE LLOYD: Probably the lawyers.

11 MR. TITELMAN: We will have a word with them. But
12 there is a stamp -- there was a stamp concept that was dis-
13 cussed at the time, and it was a very different stamp concept
14 than the one that Bernie Kirschner, I know, talked about;
15 was an entirely different thing that was adopted.

16 There is no reason in the world why, under the current
17 mechanism when the bill is paid, through an electronic data
18 processing interface between the CAT Fund and the Bureau of
19 Motor Vehicles; that the stamp requirement could be eliminated,
20 and PennDOT simply know that the bill was paid and that would
21 be the end of it.

22 And all the hassles in getting the stamp, affixing
23 it, whether or not you forget it, would be eliminated. But
24 because of the delay, obviously we had the bills sent out
25 late, and then you have a problem with the double billing,

1 the apparent double billing.

2 It wasn't really a double billing; it was billing
3 two different years of coverage almost back to back, one
4 at the end of one year and the other at the second -- at
5 the beginning of that year.

6 So we don't have an ideal system. There is no doubt
7 about that. The cost of collection isn't what has been
8 reported. Purportedly, in the press, I have read articles
9 that it was four dollars and some cents to collect the \$5.00
10 bill. I'm sure you already heard today that the first billing
11 cost 48 cents per vehicle to collect, the second billing
12 76 cents because of the addition of the sticker requirement.

13 Now, I think part of the problem, I think certainly
14 we have got to understand that for any catastrophically
15 injured victim, the existence of the program is really
16 critical. It will prevent them from being forced to become
17 welfare cases.

18 What happens in the absence? I mean, in the same
19 breath the AAA talks about putting caps on medical coverage.
20 What happens to that person at the high end? This is where
21 we have a crisis in our health care system in the country.

22 What happens to that person whose coverage runs out,
23 whether it's his group health insurance coverage or his health
24 insurance coverage under his auto insurance plan?

25 The low end of coverage isn't really the problem.

1 Most people have sources of coverage, whether it's group
2 health insurance or what have you. It's up here at the high
3 end where this CAT Fund is -- that we have a need, a problem,
4 and this is because people run out of their coverage. And
5 then what are they supposed to do?

6 These are people -- these are hard-working people.
7 These aren't just people who are welfare cases we are talking
8 about. We are talking about the vast bulk of us who are
9 already working people, but we are not millionaires and our
10 coverage runs out.

11 Now, where do we go to get the bills paid when that
12 occurs? I tell you where we go. We go to our own assets
13 first. And once we have depleted our assets, and only when
14 we have exhausted our assets can we turn to medical assistance.
15 That is where we go.

16 So you are forced to deplete your assets and then
17 go to the taxpayers anyway.

18 So, you know, we eliminated -- what we are doing is
19 just simply hiding the costs; we are shifting it around. I
20 understand people being upset with the collection mechanism.

21 I've found -- I have done radio talk shows. I have
22 spoken to groups, spoken to the United Steelworkers Legis-
23 lative Committee down in Linden Hall a few weeks ago.

24 Once people understand the program, the program and
25 how it works, they tend to support it. It's important to

1 divorce the program from the problems in its implementation.
2 Once they understand the program, they tend to support it.

3 But they also say, "How come we have such an awful
4 collection system? Why wasn't the public better informed?"

5 Well, I can't argue with that. I think the CAT Fund
6 law requires that the Executive Director of the CAT Fund
7 conduct a public information program to inform the public.

8 And that I think was a failing in the beginning of
9 the CAT Fund. It just wasn't done.

10 Lately I have seen increased evidence that this is
11 being done. There is a greater effort of public information,
12 but I think -- I think even more public information is required.

13 With regard to the collection mechanism, I see really
14 only three effective alternatives. The first is to have
15 PennDOT collect it with the registration fee. You can have a
16 registration card and on one side, split it in half, and one
17 side it says PennDOT, \$24 registration renewal; the other
18 side it says CAT Fund, \$5.00 charge.

19 Now, there is some that are concerned that the public
20 would be confused into thinking that was an increase in the
21 registration fee. I don't sell the public short. I think
22 they are smarter than that.

23 And I think you are careful as to when and how you
24 raise any fee that may need to be raised. You are obviously
25 only going to raise them in the same year. So that is one way

1 of doing it.

2 Low cost; it would take several months of time to
3 implement that, there is no doubt about that. And you have a
4 current contract that exists that is in effect until January
5 20, 1987.

6 There may well be some damages that would result;
7 in other words, some costs involved in getting out of that
8 contract. But I think it's an easy and effective way of
9 doing it.

10 Then there is another alternative. You can let the
11 insurance industry collect the registration renewal fee the
12 same time they are collecting the CAT Fund fee, to use the
13 current mechanism and collect both in the private sector.

14 That would take a little bit longer to implement
15 in order to transition those aspects of the registration
16 renewal program out of PennDOT and on to the private contractor.

17 Either way the savings would be about the same,
18 over four million dollars a year annually in postage costs
19 alone.

20 Now, there is one thing that can be done right away.
21 Both of those two alternatives take some time to implement.

22 There is one thing that could be done right away
23 that, I believe, would give the public immediate relief
24 and incidentally give PennDOT immediate relief, because they
25 are returning these registration renewal -- registration

1 renewal applications to people right and left for the failure
2 to put the sticker on. And their office is involved in
3 this whole thing. And, as a former Director of the Bureau
4 of Motor Vehicles, I'm sympathetic with that problem.

5 And there is a cost incurred there in making those
6 returns and a great aggravation to the public.

7 And that is an interface between the two computer
8 systems so that you don't need to have the sticker. Such a
9 program would save at least one and a quarter million dollars
10 annually in postage costs alone for this CAT Fund.

11 Again, also all of those things, of course, would
12 help to alleviate any short-term problem with the validity
13 of the \$5.00 charge.

14 So with that -- and I want to recommend this report
15 to the Committee. I think it's comprehensive. I think you
16 will find it fascinating. With that, I would like to answer
17 any of your questions.

18 CHAIRMAN STUBAN: Thank you, William. Anybody got
19 any questions? Representative Lloyd.

20 REPRESENTATIVE LLOYD: Thank you, Mr. Chairman.

21 Mr. Titelman, a number of questions. The contract
22 with the collection agency that runs through January, 1987,
23 is that the contract between ICS and the subcontractor, or
24 is it the contract between the Insurance Department and ICS
25 or both?

1 MR. TITELMAN: I think it's all -- there may be two
2 exact -- two contracts involved, but I have not personally
3 seen those contracts. Although I understand that the contract
4 -- I would guess that it would have to be a contract between
5 the CAT Fund -- really, the important contract would be the
6 contract between the CAT Fund and the subcontractor that is
7 going to be the collection agency, namely General Data,
8 Data General, whatever it's called.

9 That contract has a value, I understand, of nine
10 million dollars. Of course, that includes all the postage
11 costs and things like that that they would incur. So what
12 the exact damages would be if we were to say, "Wait a second,
13 we want to cut this off right now," I don't know.

14 But I do know that the contract was guaranteed by
15 the Commonwealth until January 20th, 1987. Beyond that
16 you would have to ask other people, be asking the Insurance
17 Department for copies of the contract and go on from there.

18 REPRESENTATIVE LLOYD: You weren't here earlier
19 today when the Insurance Department testified, were you?

20 MR. TITELMAN: No, I just arrived.

21 REPRESENTATIVE LLOYD: It would have been nice to
22 have you hear this, because some of the things you said are
23 a hundred eighty out from some of the things that they said.

24 MR. TITELMAN: I would be interested in knowing what
25 they were.

1 REPRESENTATIVE LLOYD: I am going to try to inform
2 you of this business about entering the contract. We got a
3 lot of discussion this morning and earlier this afternoon
4 about who is in charge of this program.

5 And the Insurance Department basically said again and
6 again and again, "We are not." You know, ICS is in charge,
7 ICS is doing this, ICS is doing this. But yet now, you
8 seem to be saying, "Well, maybe you guys couldn't abolish
9 it even if you wanted to because you would have all these
10 big damages."

11 MR. TITELMAN: I'm not so sure about that.

12 REPRESENTATIVE LLOYD: I'm not sure about that either.
13 And I kind of resent it, what I took as your implication,
14 that, "Boy, you better not do this because" - - -

15 MR. TITELMAN: No, I am not - - -

16 REPRESENTATIVE LLOYD: - - - "we would have a problem."

17 MR. TITELMAN: I didn't intend to imply that.

18 REPRESENTATIVE LLOYD: Leaving that aside, that
19 was the Insurance Department which entered that contract and
20 committed the Commonwealth to 1987. And it seems to me if
21 we can't get out of it, that is the Insurance Department's
22 obligation to enforce that contract, and to make sure that
23 the collection process is cleaned up and there is a better
24 public information program than there has been.

25 MR. TITELMAN: If I can just say here, I don't mean

1 that we should not get out of that contract. I'm not intending
2 to suggest that at all. I'm just stating the facts as I know
3 them.

4 And with regard to cleaning up the program, let me
5 say that one of the findings of the Senate Committee, which I
6 happen to wholeheartedly agree with, is that the program could
7 be cleaned up without the need for a single piece of legis-
8 lation.

9 Whether PennDOT were to do it, whether ICS were to
10 do it, any of the recommendations that I have discussed,
11 could be accomplished within the statutory language that is
12 already on the books.

13 REPRESENTATIVE LLOYD: Let me ask you a question about
14 statutory language. You said that the CAT Fund has the duty
15 to publicize how you go about getting the sticker and why
16 we have this program.

17 And you are going to point to the same section of
18 the law which was read to the Insurance Department this
19 morning.

20 The Insurance Department's position is that the CAT
21 Fund Chairman, the Insurance Commissioner, does not have that
22 responsibility - - -

23 MR. TITELMAN: It's not - - -

24 REPRESENTATIVE LLOYD: - - - that that responsibility
25 lies with Mr. Holczman and ICS.

1 MR. TITELMAN: Well, what somebody did was to sort
2 of -- it's a little bit of a word game, because the term used
3 in the bill and the law is not the Chairman of the CAT Fund,
4 but the Executive Director of the CAT Fund.

5 REPRESENTATIVE LLOYD: Executive Director; I stand
6 corrected about that.

7 MR. TITELMAN: And that is -- if it was said the
8 Chairman, they might be able to argue that, but the language,
9 what it states is the Executive Director shall. That is
10 clear language in my mind, and it leaves no room for passing
11 the buck to someone else.

12 REPRESENTATIVE LLOYD: Have you communicated your
13 views to the Insurance Commissioner?

14 MR. TITELMAN: I certainly have.

15 REPRESENTATIVE LLOYD: With the present Insurance
16 Commissioner?

17 MR. TITELMAN: Yes. I do have some things I saw, and
18 I think I have brought with me - - -

19 REPRESENTATIVE LLOYD: When are the TV ads going
20 to start?

21 MR. TITELMAN: I saw a newspaper ad in -- I mean,
22 as per the PACE program.

23 REPRESENTATIVE LLOYD: That's right, the PACE program
24 that the people in the ads didn't support. It's all over
25 the state and my constituents understand the PACE program.

1 They didn't need to see their television all the time. What
2 I don't understand is the \$5.00 fee - - -

3 MR. TITELMAN: I'm glad to share with you up here
4 an ad which I saw in yesterday's Harrisburg Evening News - - -

5 REPRESENTATIVE LLOYD: Most of my constituents don't
6 get the Harrisburg Evening News.

7 MR. TITELMAN: I would assume they have done it in
8 other papers around the state.

9 REPRESENTATIVE LUCYK: No, they haven't.

10 MR. TITELMAN: But here's an ad, notice to vehicle
11 owners signed by George Grode, Chairman of the Catastrophic
12 Loss Trust Fund Board, and if anybody wants to - - -

13 REPRESENTATIVE LLOYD: If that is as informative as
14 the brochures everybody put out, they answer all the wrong
15 questions. Maybe you know the kind of questions people have.

16 Well, don't. I already have something that takes
17 care of that. How did we get this? And authorizes the kind
18 of questions they don't get answered. How do we make sure
19 somebody isn't running away with this money? Those are the
20 kind of practical questions the guy on the street is asking,
21 and none of the brochures answer that.

22 MR. TITELMAN: Representative Lloyd, I wouldn't argue
23 with that. The day after the law was passed in February,
24 I personally went to the then Deputy Insurance Commissioner,
25 who is now -- who was then, who also became, in the interim,

1 Executive Director, is not with the Department anymore, and
2 offered the services of myself and others to assist the
3 Department in the implementation of the new law and to help
4 develop brochures and things like that.

5 I never received a phone call after that day. I
6 would have been delighted to help out. I think that public
7 information is so essential in any new program.

8 Now, change is difficult for people to accept. Any
9 change, I don't care what it is. This is one that deserved
10 to be explained. The program is a good -- the underlying
11 program is a good, sound designed program that serves a
12 very valuable public purpose.

13 It needs to be explained. The bugs need to be worked
14 out. They should have been worked out quickly. I think it
15 was a shame it took until August before, as the records here
16 indicate, for the first regulations to be issued regarding the
17 implementation.

18 It was impossible, by that point in time, in my
19 opinion, to effectively implement the CAT Fund collection
20 mechanism in conjunction with the effective date of the
21 new law. Had it been done in conjunction with the effective
22 date of the new law, we would have avoided most, if not all,
23 of the problems that we have now accrued as a result of the
24 delay, and it was like a domino effect.

25 REPRESENTATIVE LLOYD: Now, the computer interface,

1 which you suggested, one of the things that always worries me
2 when we start hooking up computers, is that a lot of informa-
3 tion is going to be transmitted to an outside party that
4 the outside party really doesn't have a need to know.

5 And that could happen in one of two ways, or under
6 two of the three suggestions. One would be in the interface,
7 if somehow -- and I don't understand very much about computers
8 -- that if you hook up, give ICS the opportunity to access
9 into the PennDOT computers, that this also might carry with it
10 the opportunity to fish information out of the PennDOT com-
11 puters.

12 MR. TITELMAN: That would not need to occur at all.
13 And I particularly am interested in answering that, because
14 when I was Director of Motor Vehicles, and in the early
15 seventies, I was intimately involved, and really supervised
16 the design of the system that is still essentially in use
17 in PennDOT today.

18 The computers - - -

19 REPRESENTATIVE LLOYD: The PennDOT Performance Audit
20 doesn't -- the Legislative Budget and Finance discovered that
21 it didn't have very good security.

22 MR. TITELMAN: There is no system that has ever been
23 designed that can't be improved. However, PennDOT probably
24 has a lower cost per transaction of any state motor vehicle
25 agency in the United States to this day. And the error rate

1 is remarkably low.

2 You only hear from people, you know, that -- you only
3 hear from people who are unhappy, and if the error rate is
4 two-tenths of one percent out of 20 some million transactions,
5 you are going to hear from some of those people.

6 But there is no reason -- PennDOT already gives them
7 the tape. There is no reason that that tape simply couldn't
8 be sent back with a notation on it that the charge was paid.

9 There is no reason that the ability of the CAT Fund,
10 or ICS, to get into the PennDOT system isn't limited by a
11 design in the program to limit it to simply an indication,
12 yes or no, has the CAT Fund been paid.

13 In other words, input only and input limited to the
14 notation as to whether or not the CAT Fund fee has been paid.

15 REPRESENTATIVE LLOYD: Well, what concerns me, for
16 example, is that if you have the ICS collecting the regis-
17 tration, that gives them the ability to put up a -- put
18 together a computer list of all the licensed drivers.

19 MR. TITELMAN: They already have it.

20 REPRESENTATIVE LLOYD: They do already have it?

21 MR. TITELMAN: Of course.

22 REPRESENTATIVE LLOYD: Not only names and addresses,
23 but kind of vehicles and things of that type?

24 MR. TITELMAN: I don't know if they have kind of
25 vehicles, but the information on - - -

1 REPRESENTATIVE LLOYD: I know they have to have the
2 name and address.

3 MR. TITELMAN: But -- they have the names and
4 addresses, but that is the most valuable thing.

5 REPRESENTATIVE LLOYD: But not necessarily, because
6 I occasionally get contacted by merchants who say, "I would
7 like to send out an ad to all the truck owners," and PennDOT
8 says, "We have regulations that say we can't release that kind
9 of thing."

10 And I wouldn't like to see us give information to
11 ICS that they can turn around and sell that information to
12 somebody else.

13 MR. TITELMAN: Obviously there is a question of
14 both state law and the contract; it's forbidden to sell the
15 registration list, as best I understand, certainly with the
16 names and addresses. And I think it's a question of contract.

17 You put in some very stiff penalty, either in the
18 contract or by law. You could do something about that.

19 REPRESENTATIVE LLOYD: Now, you said most people have
20 coverage at the low end, and I assume what you mean by that
21 is that most people either choose to have coverage from their
22 auto insurance company for losses between 10,000 and a hundred
23 thousand, or they have insurance through Blue Cross, Blue
24 Shield, or some other comparable company. Is that what you
25 mean?

1 MR. TITELMAN: In fact, I could give you a study
2 that was done some time ago, a year or two ago on this, which
3 showed that disregarding auto insurance, 85 percent of
4 Pennsylvania citizens had another source of first-party health
5 insurance, either group, their group health insurance,
6 personal health insurance or so on; that is correct.

7 But these programs tend -- they begin running out of
8 coverage in the hundred thousand dollar range. Some of them
9 go much higher. The state health insurance plan really
10 doesn't kick out until about two million dollars, but many
11 of them, especially those purchased by, you know, maybe small
12 employers, that kind of thing, the coverage can begin to run
13 out at about the hundred thousand dollar, quarter of a million
14 dollar level, in that kind of a range.

15 REPRESENTATIVE LLOYD: I guess my final question has
16 to do with whether, or why you feel, or if you feel that
17 we should go to such great pains to make sure the \$5.00 is
18 collected when we don't, as you pointed out, do that same
19 thing to make sure that the person buys 500 or a thousand
20 dollars' worth of other insurance.

21 MR. TITELMAN: Well, I think first of all, the only
22 way we can make this program, this particular program work
23 successfully, is to make sure that everybody pays in. I
24 have a problem -- I think that is maybe counterintuitive,
25 if you will.

1 One would think that lawyers and insurance companies
2 would favor compulsory insurance. We have learned that it's
3 really a bad thing. As I -- again, I could get into a very
4 lengthy conversation as to how our insurance systems and
5 available coverages have evolved, and also the way the people
6 are covered today as opposed to the way they were back then.

7 I do not believe that insurance ought to be compulsory.
8 If it is, the state is acting -- and if that is the case, then
9 my personal opinion, I shouldn't have to be -- buy it from
10 a private company.

11 I ought to be able to buy it from a state fund and
12 avoid paying for somebody's profits, overhead and all those
13 other kind of things.

14 I don't think that you should force -- anytime you
15 make those low-end coverages compulsory, you run into problems.
16 You run into problems of affordability. You price some people
17 out of the marketplace. Some people - - -

18 REPRESENTATIVE LLOYD: All right. I - - -

19 MR. TITELMAN: It's a - - -

20 REPRESENTATIVE LLOYD: We could have a long philo-
21 sopherical discussion about it. That really isn't the question.
22 The question is why -- you started to answer why you think
23 it is so essential that we collect the \$5.00 from everybody.

24 MR. TITELMAN: Really, it is because at the
25 high end, at the high end, people's coverage drops off, and

1 their coverage is very -- it provides something that is no
2 replacement for many people.

3 At the low end, many people, many, many people already
4 have those coverages, so there is a distinct, distinct
5 difference.

6 And that hundred thousand dollar figure isn't some-
7 thing that is pulled from a hat.

8 REPRESENTATIVE LLOYD: So we should play Big Brother
9 though over a hundred thousand dollars?

10 MR. TITELMAN: Well, listen, I think that is a
11 legitimate argument as to whether any kind of benefit program
12 ought to be compulsory. I could, in my mind, see some degree
13 -- some more degree of justification at the high end, where
14 many people don't have it, than at the low end.

15 But yes, sir, I mean it's a public policy decision
16 that has to be made. This Legislature has, on two separate
17 occasions, decided that it wants to do something at the high
18 end; once when it required people to buy unlimited medical
19 benefits as part of their auto insurance coverage back in
20 1974 when they passed the no-fault law; and again when they
21 passed this law and put into place the Catastrophic Loss
22 Trust Fund.

23 I mean, it's a policy decision that all of you,
24 as members of the General Assembly, have to address. My
25 question to you is, would you want someone in your family,

1 after they have been catastrophically injured, to have to
2 divest themselves of all of their assets essentially in order
3 to qualify for medical assistance? Is that the kind -- and
4 which really provides very minimal kind of care.

5 I mean, is that the kind of care that you would want?

6 REPRESENTATIVE LLOYD: There is a two-step question
7 there.

8 MR. TITELMAN: Agreed.

9 REPRESENTATIVE LLOYD: And the first question, would
10 I expect them to buy insurance to protect themselves? And
11 the answer to that is yes.

12 MR. TITELMAN: But how much money can they afford?

13 REPRESENTATIVE LLOYD: But again my question is is
14 there a benefit to them if we force everybody to pay into a
15 fund, can we hold the cost down and therefore justify imposing
16 this requirement on people?

17 MR. TITELMAN: I don't think we can hold the cost
18 down.

19 REPRESENTATIVE LLOYD: Well, why can't we? Why can't
20 we accomplish much the same thing by simply having the
21 insurance company include the cost of the catastrophic coverage
22 as part of the premium?

23 MR. TITELMAN: Simple answer to that. One, you have
24 no method of effective enforcement against uninsured motorists,
25 so you lose them.

1 REPRESENTATIVE LLOYD: Okay, and you lose them. Now,
2 with the bulk of all the rest of insurance coverage, you simply
3 say - - -

4 MR. TITELMAN: But you lose again.

5 REPRESENTATIVE LLOYD: - - - anybody who is uninsured
6 can't collect from the CAT Fund.

7 MR. TITELMAN: Of course, but you lose them. The
8 problem is that we are not just paying -- remember that this
9 fund doesn't just pay for motorists; it pays for any person
10 who is injured.

11 And that includes pedestrians who are not required
12 to buy auto insurance, people who don't own automobiles,
13 other family members and so on.

14 So what you are doing is you are forcing a smaller
15 class of people, who create the risk, to assume a larger risk.

16 REPRESENTATIVE LLOYD: You are also probably excluding,
17 however, from benefits a lot of people who are higher risks.
18 My hypothesis is - - -

19 MR. TITELMAN: Some of them. People who don't buy
20 insurance wouldn't be disproportionately people who are
21 higher risks, but you are still going to be providing. Suppose
22 there is some deadbeat who doesn't buy insurance and is maybe
23 a high risk person. Are you going to deny the benefits to
24 his, let's say, eight-month old daughter who had no control
25 over that who was injured? I mean, you are going to deny

1 benefits to that person? Are you going to deny benefits to
2 the passenger who didn't know the person was uninsured?

3 You have all kinds of problems. There is a risk in
4 that context, and I tell you - - -

5 REPRESENTATIVE LLOYD: We have liability insurance.

6 MR. TITELMAN: I tell you that it creates -- again,
7 we can get a long conversation. I tell you that if you do
8 it through the insurance companies, enforcement will not be
9 effective. You will not get full compliance.

10 You will increase the cost to those who are policy-
11 holders.

12 REPRESENTATIVE LLOYD: By how much?

13 MR. TITELMAN: Hard to say. I would just guess 10,
14 15, 20 percent?

15 REPRESENTATIVE LLOYD: You know, it's funny.

16 MR. TITELMAN: That is a guess.

17 REPRESENTATIVE LLOYD: When people pulled out of that,
18 when they went to this system, we didn't see a 10, 15, 20
19 percent reduction in premiums to relieve the insurance companies
20 of having to provide this coverage.

21 REPRESENTATIVE LUCYK: Right.

22 MR. TITELMAN: That is not really correct. That is
23 not -- it depends on who you bought insurance from.

24 REPRESENTATIVE LLOYD: It's going to be interesting.
25 I am doing a public opinion poll in my district right now.

1 One of the questions is what happened - - -

2 MR. TITELMAN: I will show you a copy - - -

3 REPRESENTATIVE LLOYD: That they are reduced?

4 MR. TITELMAN: Talk to Dave Snyder with Nationwide.
5 Talk to Dave Snyder from Nationwide. He is going to testify
6 for the companies that account for more than 50 percent of
7 the market, and did, in fact, reduce rates.

8 Now, I can prove that, and you can go and make
9 groans and moans, okay. You get complaints from people who
10 are unhappy, and I think that is -- they have legitimate
11 complaints, but I tell you that there is many people that did
12 save money under this plan, and many smart consumers were
13 able to shop around and do something about their rates.

14 Now, again that is a whole other -- we are here on
15 the CAT Fund. You want to get into the whole issue of rates
16 I will be glad to do it, and I will show you proof. I will
17 pull out filings from the Insurance Department and I will
18 show you people's policies.

19 And I have dealt with personally at least 100 indi-
20 vidual insurance complaints that legislators have sent me.
21 And on every single occasion, bar none, I was able to save
22 the constituent money, every single occasion.

23 I may have had to say to them, "You better go with a
24 different insurance company," but I was able to save them
25 money. I haven't had one case I wasn't able to help a person

1 in that respect.

2 So I mean, you want to get that far afield, I am glad
3 to do it. Now, I'm not, believe me, I'm not an apologist
4 for the insurance industry. I think everybody sees what is
5 going on generally with rates right now, or generally with
6 rates, and it's an across-the-board problem in the entire
7 property and casualty industry, whether it's auto or commercial,
8 auto or malpractice, or municipal liability or nurse-midwives
9 or daycare centers; it's in a crisis of claims.

10 These claims costs are perfectly predictable. It's
11 a crisis that resulted in the fact that they engaged in com-
12 petitive price wars when interest rates were going like this,
13 (indicating), the highest level in the nation's history.

14 They were relying on investment income; they were
15 underwriting their insurance to gain market share to get all
16 this investment income.

17 And when the economy turned around, which incidentally
18 in regard to interest rates, coincided with the effective dates
19 of the law, the end of the fourth quarter of 1984, and interest
20 rates went like that, (indicating).

21 Many of these companies lost 50 percent of their
22 investment income. Now, claims are paid out of the total of
23 premium and investment income. If you lost 50 percent of your
24 investment income and your underlying rates were inadequate
25 because you were going to try to gobble up the market share to

1 get investment income, now you really had to give a whopping
2 rate increase to the point where some of those rate increases
3 may well be excessive. But that is a whole -- that is a
4 whole other issue.

5 REPRESENTATIVE LLOYD: I don't want to tie up and
6 take any more time of the Committee, but I would like, if
7 you say you can demonstrate - - -

8 MR. TITELMAN: Yes, sir.

9 REPRESENTATIVE LLOYD: - - - the difference in rates;
10 I have seen spread sheets which the Insurance Department has
11 distributed which compared rates of companies writing insurance
12 in my district for, I guess, the bare bones package.

13 I would be interested, if you have it, in seeing a
14 comparison of what that cost people, what the old coverage
15 cost people and what the new coverage, the bare bones, cost
16 them all, and what if they kept the same coverage rates they
17 have, the extent they are legally allowed.

18 MR. TITELMAN: I would be glad to do that.

19 REPRESENTATIVE LLOYD: What they paid for that.

20 MR. TITELMAN: I would be glad to do that.

21 REPRESENTATIVE LLOYD: And maybe Mr. Snyder then
22 needs to be encouraged in an advertising campaign on behalf
23 of Nationwide telling everybody, "Come buy from us because our
24 insurance is cheaper than everybody else."

25 Thank you, Mr. Chairman.

1 CHAIRMAN STUBAN: Representative Lucyk?

2 REPRESENTATIVE LUCYK: Okay, Bill -- Mr. Titelman.

3 You say this is not compulsory. I want to talk a little about
4 the whole insurance, not just the CAT Fund that we have going.

5 You say that is not a compulsory insurance program
6 we have in Pennsylvania?

7 MR. TITELMAN: It's compulsory financial responsibility.
8 If you wish, if you wish you may put up your assets and put
9 your personal assets up.

10 REPRESENTATIVE LUCYK: But how do you do this? How
11 do you do this on your license?

12 MR. TITELMAN: To do this you have to qualify as a
13 self-insured.

14 REPRESENTATIVE LUCYK: How do you do this?

15 MR. TITELMAN: Through the Pennsylvania Department
16 of Transportation. They have forms and procedures and all
17 that. I haven't done it.

18 REPRESENTATIVE LUCYK: Has anybody done this?

19 MR. TITELMAN: Only people of substantial means.

20 REPRESENTATIVE LUCYK: Would do such a thing so
21 in effect, it's still a compulsory -- in effect, a compulsory

22 - - -

23 MR. TITELMAN: You have a choice, but as a practical
24 matter - - -

25 REPRESENTATIVE LUCYK: But by law, by law, it is

1 compulsory.

2 MR. TITELMAN: As a technical matter of law, it is
3 not a compulsory insurance law. But as a practical matter,
4 in order to comply with the compulsory financial responsibility
5 law, you must buy insurance. Am I being confusing in that
6 answer?

7 It is not -- in other words, by law, you do not need
8 to buy insurance; you have a choice. The law is compulsory
9 with respect to financial responsibility. You must be
10 financially responsible. You can do it one of two ways.

11 REPRESENTATIVE LUCYK: I follow you.

12 MR. TITELMAN: As a practical matter, you have got
13 to buy insurance.

14 REPRESENTATIVE LUCYK: What I am saying to individuals,
15 the problem we run into is under the old no-fault law, which
16 was the courts ruled compulsory, can the courts rule our
17 present insurance law compulsory insurance?

18 MR. TITELMAN: That was written to avoid that, because
19 obviously we did not want to see a situation where the courts
20 would say - - -

21 REPRESENTATIVE LUCYK: That is what I am getting at.

22 MR. TITELMAN: Where the courts would say -- it was
23 written this way on purpose because we did not want to see a
24 situation arise where a victim couldn't receive benefits, and
25 went in and argued that he couldn't afford the compulsory

1 insurance requirement. And with the net result that we had
2 a decision like we had in Michigan, the Shavers case, which
3 started them, Michigan, lowering the rates in Detroit and
4 raising the rates everywhere else in Michigan. We didn't
5 want to see that. I think you would have a revolution on
6 your hands if something like that were to occur.

7 REPRESENTATIVE LUCYK: I wanted you to put that on
8 the record. That is why I asked you that question.

9 Going back to Bill's question, would you provide me
10 a list of insurance companies - - -

11 MR. TITELMAN: I would be delighted to.

12 REPRESENTATIVE LUCYK: - - - who will provide an
13 individual with the same amount of coverage that he had before
14 this law, after this law, at a lower premium?

15 MR. TITELMAN: I will get you the information, that
16 same information.

17 REPRESENTATIVE LUCYK: I have all those spread sheets
18 that Bill is talking about.

19 MR. TITELMAN: I have some others.

20 REPRESENTATIVE LUCYK: But I still come in, and the
21 guys come in, "My insurance rates went up 30 percent," or
22 40 percent. "Well, actually I had \$50,000. Well, I'm only
23 getting 10,000 now, but I did have 50,000."

24 MR. TITELMAN: Of course, some of those people, some
25 of those people would be well advised not to take what was

1 being required before. I mean, why should a retired person
2 take a work-loss benefit - - -

3 REPRESENTATIVE LUCYK: That goes back - - -

4 MR. TITELMAN: - - - for example.

5 REPRESENTATIVE LUCYK: That goes back to what we
6 argued about before about insurance agents. But I want to
7 see the insurance companies - - -

8 MR. TITELMAN: I will get the information.

9 REPRESENTATIVE LUYCK: - - - give you an insurance
10 policy with such and such coverage on and you are going to
11 get more than another insurance company that, you know, is
12 not going to be out of business tomorrow; that is going to
13 give me the same coverage but at a reduced rate.

14 MR. TITELMAN: In fact, it tends to be the most sub-
15 stantial companies, the ones with the big market share, and
16 they have increased their market share as a result of the
17 kind of rates they are offering.

18 REPRESENTATIVE LUCYK: Okay. Did you foresee --
19 you know, you were the driving force behind the change in this
20 law. Did you foresee the problems that we are having now
21 with the CAT Fund?

22 MR. TITELMAN: Yes, sir; I did.

23 REPRESENTATIVE LUCYK: Why didn't you tell them
24 about - - -

25 MR. TITELMAN: I didn't tell them that; that this

1 wasn't ever going to work.

2 REPRESENTATIVE LUCYK: You sat in my office and I
3 asked you, "Bill, are we going to have problems with this new
4 law?" You remember that, remember that, me and you? "No
5 problems."

6 MR. TITELMAN: I certainly did say to -- I certainly
7 said to people that they are going to have to make a change
8 in the trust fund.

9 REPRESENTATIVE LUCYK: "Trust me."

10 MR. TITELMAN: I said to people when that - - -

11 REPRESENTATIVE LUCYK: Now wait. Now wait. You and
12 I know each other, and we sat in my office and I said, you
13 know, "Bill, you know, I'm a little leery of this law and
14 everything else. Do you foresee any problems that we are
15 going to have with this law?"

16 MR. TITELMAN: Well, I certainly didn't foresee --
17 this was something I didn't foresee, I have to say that. I
18 did not foresee the kind of situation that would occur with
19 many of the agents. I did not foresee that this law would
20 take effect at the time that it would be, in the underlying
21 economic situation of the insurance industry, which has really
22 been a problem. I didn't foresee that.

23 REPRESENTATIVE LUCYK: But about the administration
24 of the CAT Fund.

25 MR. TITELMAN: I did with the CAT Fund. I might not

1 have said it to you, but I am telling you when the Dawida
2 Amendment was offered on the floor to require the insurance
3 companies to collect it, I said at the time, and I think I
4 was in Representative Kowalyshyn's office at the time, that
5 if it's done that way, it's going to be a disaster; the program
6 is not going to work.

7 I said either PennDOT has to collect or another single
8 entity has to collect it using the PennDOT data base. Any-
9 thing else won't work.

10 CHAIRMAN STUBAN: That is all? Bernie Kirschner?

11 MR. KIRSCHNER: All right, Bill. Now, during the
12 drafting of this legislation, and I was asked this question
13 this morning -- I testified earlier this morning -- Ben
14 Wilson asked if I would supply him with the testimony that
15 indicated how we arrived at the \$5.00 CAT Fund figure.

16 And as I remember, I believe you were present at
17 some of these meetings; we were told that there is some six
18 million cars, \$5.00 per car is 30 million dollars. We didn't
19 anticipate the collection fee figure of 15 percent.

20 The Committee was told that 30 million dollars would
21 be adequate to handle any catastrophic loss fund. You are
22 now sitting here and telling us that 30 million dollars is
23 not adequate and you have got to double it. You are now
24 saying you want 60 million dollars.

25 MR. TITELMAN: No, I'm not saying that.

1 MR. KIRSCHNER: Yes, you are, sir. You said that
2 there are 200 claims with an average of \$400,000 a piece. The
3 first hundred thousand dollars is paid by the first-party
4 benefits. Three hundred thousand dollars per claim multiplied
5 by 200 equals 60 million dollars.

6 MR. TITELMAN: That's correct.

7 MR. KIRSCHNER: Now you are telling this Committee
8 that it will cost \$10.00 per year or more because of the
9 claims - - -

10 MR. TITELMAN: No, I'm not.

11 MR. KIRSCHNER: - - - instead of \$5.00?

12 MR. TITELMAN: There is a good answer to that. Most
13 of these victims who are getting benefits from this fund will
14 be receiving benefits for many years. In other words, you
15 are going to get 200 every year.

16 Those people will be in the program for many years,
17 up to 20 years, the way this is written. And so, every year
18 until the plan really fills out, you are going to really --
19 ultimately, when the plan fills out, you are going to have
20 several thousand motorists receiving benefits on a regular
21 basis every year from the fund.

22 As far as motorists going in every year, every year
23 you are going to have 200 go in. You are going to collect
24 a net of 30 million dollars, after your expenses, roughly.

25 That 30 million dollars will be invested. The pay-out

1 on the 60 million dollars will occur over a substantial period
2 of time, so that the result is that the 30 million dollars
3 ought to be adequate to provide 60 million in ultimate pay-out
4 every year to those victims.

5 You collect 30 million dollars this year for the
6 200 victims this year. You collect and invest that money and
7 pay it out to them. You can collect 30 million next year for
8 the 200 victims that come into the program next year and so
9 on. That is the way insurance works.

10 You take the money, you invest it, put it in reserve
11 essentially and reserve and use the total of the premium
12 that you take in, plus the investment income that you accrue
13 over a period of time.

14 MR. KIRSCHNER: It's declined now because the interest
15 rates are down?

16 MR. TITELMAN: Well, that is true.

17 MR. KIRSCHNER: But nonetheless, you are - - -

18 MR. TITELMAN: But a very conservative rate.

19 MR. KIRSCHNER: In your opinion, would you still feel
20 that \$5.00 is an adequate fee if six million motorists are
21 making this contribution?

22 MR. TITELMAN: Look, the thing that will affect it
23 is what happens to the inflation rate and health care costs,
24 and how that relates to your underlying inflation rate,
25 and therefore, interest rates.

1 MR. KIRSCHNER: Without hedging, all things being
2 equal, interest rates remain the same as they are today, health
3 costs remain the same as it is today. Some health costs,
4 as a matter of fact, are coming down a little bit. You still
5 think that is adequate?

6 MR. TITELMAN: I believe it will be adequate.

7 MR. KIRSCHNER: Thank you.

8 CHAIRMAN STUBAN: Representative Veon?

9 REPRESENTATIVE VEON: Bill, if you could -- once again,
10 I still fail to understand why the insurance companies could
11 not collect it other than your statement for the record here,
12 the written record, that it would be a costly undertaking for
13 200 companies to perform the cost of reprogramming of more
14 than 200 different and incompatible computer systems.

15 MR. TITELMAN: An estimated initial cost of 15 million
16 dollars, as they came out in front of testimony of the Inde-
17 pendent Regulatory Review Commission. Now, that may not be --
18 that may not be a correct cost, maybe it's less.

19 But can you imagine, PennDOT says it costs them a
20 hundred thousand dollars to reprogram their computer to do it
21 for the self-insured, by their own testimony.

22 Now, you are talking about programming. This is
23 software, okay. Now, if it's going to cost PennDOT a hundred
24 thousand dollars, the cost can't be all that much different
25 per company. Maybe it is and maybe it isn't, but the more

1 important thing is that you are going to miss collecting from
2 the uninsured motorists, which forces up the cost on the rest
3 because I buy insurance, I don't want to have to pay more than
4 my share. Why would you do that?

5 And the enforcement is after the fact if the insurance
6 companies collect it. The enforcement can only be after the
7 fact.

8 Now, the cost of effective after-the-fact enforcement --
9 again, there has been testimony on this -- is a hundred thousand
10 dollars on the average per case. Why is that? Because you
11 have got notice requirements; you have got to provide the right
12 to a hearing since some people will request it; you have got
13 to send state police, or some other enforcement officials, out
14 to pick up a tag if need be; you have got to store that tag;
15 you have got to send it back and so on.

16 Now, you know, I've been on both sides of this thing.
17 I have been -- had the experience in PennDOT a number of years
18 ago, I grant, and I have been on this thing. I tell you it
19 will not work effectively because you will force up the costs
20 to the rest of us who are honest, law-abiding citizens and
21 buy insurance. We will be paying more than our fair share.
22 that is one of the problems.

23 Two, the enforcement is after the fact; you can't
24 effectively enforce it. Three - - -

25 REPRESENTATIVE VEON: Wait a minute. Just on that

1 point, you can't effectively enforce it; we are talking about --
2 I'm not talking about it, as you said, before the premium for
3 the whole year being paid up front.

4 MR. TITELMAN: That is the same thing.

5 REPRESENTATIVE VEON: I am talking about the \$5.00
6 CAT Fund fee, that - - -

7 MR. TITELMAN: But you have a problem because policy
8 insurance -- policy renewal dates differ from registration
9 renewal dates. And it is impossible, except in an after-the-
10 fact fashion, to make them coincide.

11 REPRESENTATIVE VEON: Okay, given that, has there been
12 testimony previously as to how big of a problem that is?

13 MR. TITELMAN: Sure, there has been testimony pre-
14 viously. People estimate that the number of uninsured motorists
15 is at anywhere between ten and 20 percent of the people who
16 ought to be insured.

17 Now, people -- there are seven million vehicles. That
18 means that there are, you know, there are seven million
19 licensed drivers. That means there are 700,000 or 1.4 million,
20 depending on which figure you would use, uninsured motorists.
21 That is not quite the same thing. But it's a very substantial
22 number. You are surely talking about hundreds of thousands,
23 hundreds of thousands of people.

24 REPRESENTATIVE VEON: Okay.

25 MR. TITELMAN: Now, I mean unless you want to fill up

1 all the jails in the state and plus clean up the system, you
2 have really got a problem. You know, it sounds great in
3 theory. It's one of these things -- you know, the problem
4 with legislation is that you never can make the real world
5 conform to the academic theory.

6 The problem is also the other way around: how do you
7 make the academic theory conform to the real world?

8 REPRESENTATIVE VEON: Is it safe to assume that the
9 insurance companies, insurance industry companies in general,
10 have increased their profit margin now that their liabilities
11 have been capped?

12 And even if the rates stay the same as they were last
13 year, or any other given year?

14 MR. TITELMAN: Well, insurance -- yes, for entirely
15 different reasons. I have with me -- and I just received this
16 from A. M. Best Insurance Management records, September 9th,
17 and A. M. Best is the Bible of the insurance industry.

18 And in it they talk about -- they talk about the fact
19 that after six years of declining profit margins, with the
20 turnaround that occurred, that now their profit margins are
21 increasing.

22 REPRESENTATIVE VEON: So - - -

23 MR. TITELMAN: There is no doubt about that, from the
24 national situation.

25 REPRESENTATIVE VEON: So you could say there are no - - -

1 . MR. TITELMAN: The insurance companies' stocks in
2 the first half of 1985 went up 30 percent, property and
3 casualty insurers, which was double their performance of the
4 underlying stock market.

5 REPRESENTATIVE VEON: It would seem there is no
6 correlation between the fact that liabilities were capped in
7 Pennsylvania and the rates would remain the same or increase,
8 that there is no increase in the profit margin. I know the
9 philosophical discussion about the rates of insurance, but
10 going back to your previous point about the rates have been
11 reduced, if this is a fact, I think the industry has a respon-
12 sibility to prove that to the Legislature and to the people
13 of this state.

14 Because in my opinion, I'm no economist and I am no
15 insurance industry expert. But I would think that anytime
16 that liabilities are capped at a certain point and the rates
17 remain the same or increase, how could you not increase your
18 profit margin?

19 MR. TITELMAN: Well, you could not -- I'm not, believe
20 me, I'm not defending the insurance industry. You could not
21 if, for example, medical costs -- and that has occurred
22 incidentally -- medical costs in the Philadelphia metropolitan
23 area continue to rise at a higher rate than the United States,
24 at eleven and a half percent annual inflation rate, in the
25 face of declining inflation elsewhere.

1 Now, if the goods and services that you are paying
2 for out of those insurance premiums are continuing to escalate
3 in cost, okay, then even if you capped your liability, at a
4 certain point you may not increase the profit margin.

5 REPRESENTATIVE VEON: I understand that, but I would
6 be hard pressed to believe that the insurance industry wouldn't
7 make all allowances for increases of their own costs.

8 My main point is that the profit margin is going to
9 be increased for the insurance industry in the State of Penn-
10 sylvania. The Legislature did it by capping their liabilities,
11 and that they have this built-in -- they have it built in.

12 We have to take their increased costs and, in fact,
13 will increase the profit margin. And their promise, implicitly
14 or explicitly to decrease rates given a cap on liability for
15 catastrophic accidents, has gone out the window. They are
16 laughing all the way to the bank. They are walking away from
17 this with no responsibility.

18 The legislators are catching all the grief, and it's
19 our responsibility to our constituents who are working.
20 Remember, we are talking about a person-to-person interaction,
21 regardless of all the other levels, et cetera, et cetera; and
22 that is our problem as legislators.

23 I wasn't here, again, when that passed, but my under-
24 standing of that process was there, in fact, was at least an
25 implicit agreement that rates could go down if, in fact, you

1 would take care of that problem for us.

2 MR. TITELMAN: Let me say that that was altered to
3 a degree, and it was altered very largely by the House and
4 by the Governor who insisted on inserting into the law higher
5 mandatory levels of coverages.

6 So that some of that was altered to a degree, you
7 know. We can get a very long-winded thing. I certainly do
8 believe the insurance responsibility -- the insurance industry
9 runs ICS. They have a responsibility to run it well and do
10 a job; there is no doubt about that.

11 The Insurance Department has a certain responsibility;
12 there is no doubt about that. And I'm not trying to discount
13 the accountability of the insurance industry in the whole
14 situation.

15 But, you know, I mean I just have to go back and say
16 there isn't -- there aren't easy answers. You don't wave a
17 magic wand and these things simply disappear. And you want
18 to cut out the CAT Fund; you know, the injuries, the injuries
19 aren't going to disappear. Somebody is going to pay for them.

20 You know, it's this kind of a thing. It's a highly
21 complex area. There aren't a lot of easy, quick fixes that
22 can be put into place. If you want to focus on the CAT Fund,
23 which I understand is our purpose here today, I do think that
24 there are some things that can be -- and I think I have
25 recommended some things that can be very readily done that will

1 solve the legitimate aggravation in people who are having
2 problems with the sticker.

3 Hey, I'm a motorist too. I sympathize. I think it's
4 a stupid system. It ought to be cleaned up.

5 REPRESENTATIVE VEON: If I may, this is my last
6 question, Mr. Chairman, very briefly.

7 CHAIRMAN STUBAN: Okay.

8 REPRESENTATIVE VEON: I wanted to mention to you what
9 I mentioned to the previous witnesses here; that I have a
10 problem with the people in my county again who are unemployed,
11 who walk into their insurance agency, "I want the basic, bare
12 bones minimum coverage you can possibly give me to make me
13 legal in the State of Pennsylvania."

14 They walk out with \$10,000 coverage, don't understand
15 anything about 10 to a hundred thousand, and are paying their
16 \$5.00 fee. And most are under the assumption that if, in
17 fact, something, God forbid, would happen, they would be
18 covered.

19 So I'm not - - -

20 MR. TITELMAN: The other side of that though, Repre-
21 sentative Veon, is this: that if you raise requirements,
22 you are going -- there is no doubt about it; a hundred thousand
23 dollars of medical benefits is going to cost a certain amount
24 of money, I don't care what. And it's going to cost more
25 than \$10,000 of medical benefits, I don't care what, all right.

1 You raise the requirements, those people who are
2 unemployed, they have a tough enough time affording what they
3 are required. This is again the problem with required
4 requirements.

5 REPRESENTATIVE VEON: Right.

6 MR. TITELMAN: This is not an easy cat to skin. I
7 mean, you want to require all these wonderful benefits for
8 people; that is great. But for gosh sakes, they got to pay
9 for it.

10 And the direction that we went in with this law was
11 trying to reduce -- keep available high level coverages for
12 those who want it and can afford it and need it, but reduce
13 the minimum requirements so that those -- I'd rather have
14 somebody have a little bit of insurance than none at all.

15 REPRESENTATIVE VEON: Okay. But they are going to
16 be ruined for the rest of their life, because they are going
17 to be responsible for 10 to a hundred, and they still had to
18 pay the \$5.00 CAT Fund.

19 MR. TITELMAN: But they were required to buy a hundred
20 thousand dollars and couldn't afford it.

21 REPRESENTATIVE VEON: I understand.

22 MR. TITELMAN: And then what would happen if he had
23 a \$5,000 injury? Do you understand what I am saying?

24 REPRESENTATIVE VEON: I understand what you are
25 saying; I understand that.

1 MR. TITELMAN: So, you know, that kind of person,
2 that is what we do have public programs for. That is why we
3 do have medical assistance and other programs like that. And
4 if we have defects in the health care delivery system, and
5 I do think we have problems in our health care delivery system,
6 we ought to be addressing them.

7 You know, it's cheaper for people who buy health
8 insurance that covers every kind of accident or injury, regard-
9 less of how it occurs, than it is for them to buy auto, health
10 insurance. It's just like buying airplane life insurance.
11 Why would you do that?

12 Why wouldn't -- you got a problem with the underlying
13 system, fix that. Don't jab at the system. Look at the one
14 that is really doing that.

15 REPRESENTATIVE VEON: Thank you, Mr. Chairman.

16 CHAIRMAN STUBAN: Thank you, William, for testifying - - -

17 MR. TITELMAN: Thank you very much.

18 CHAIRMAN STUBAN: - - - and taking up your time. I
19 was just going to give a couple minutes to Bob Middleton,
20 and no questions asked, since there were some statements made
21 about his testimony. And I think we ought to give him a
22 right to rebut, and no questions.

23 Whereupon,

24 ROBERT J. MIDDLETON

25 having been recalled as a witness, testified as follows:

1 MR. MIDDLETON: Mr. Chairman, I appreciate that very
2 much. I was distressed to hear some aspersions cast on AAA,
3 some misconceptions. And I appreciate the fact that some nice
4 things were said about me and the organization, but some
5 un-nice things were said.

6 And because this is off the record, I would like to
7 take just two or three minutes. I know you gentlemen and
8 ladies have been here a long time, but this won't take long.
9 In the order in which I heard these things, I made a few notes.

10 First of all, Bill Titelman condemned us for recommending
11 that you consider the Michigan law because it might involve
12 paying for people who hadn't paid for insurance for their cars
13 in Michigan.

14 And we did recommend that as an alternative. We are
15 not saying we should -- that motorists should pay for uninsured
16 motorists. We are saying that the people who are hurt, say
17 a pedestrian is hurt, that the people who own the cars that
18 cause the accident should pay into a pool that covers the
19 medical expense of people that are hurt. I think that is
20 pretty legitimate.

21 I said that the CAT fee is the only compulsory element
22 of our motor vehicle financial responsibility law in terms of
23 prerequisites for vehicle registration. I did not say it's
24 the only compulsory element of the law.

25 I said that it's necessary to prove financial

1 responsibility under this law, but I did not call those things
2 compulsory. The things that -- by limited insurance, which
3 I mention on Page 3 of 15,000, 30,000 and 5,000, you have to
4 prove financial responsibility. But the CAT fee is the only
5 truly compulsory thing that you have to do before the fact of
6 having an accident or committing a violation.

7 Bill said we opposed repeal of the no-fault law and
8 condemned us for that. I am proud of the fact that we
9 supported trying to reform the no-fault law. We suggested
10 a number of things which we have sent to you guys, and I'm
11 not going to extend the discussion by that.

12 But one of the things was having a cap on medical
13 benefits of 100 or \$200,000. If you want to have insurance
14 that doesn't cost you sky-high amounts of money, you have to
15 put limits in it. And we still support the general principle
16 of no-fault as a good way for people to be insured in the
17 Commonwealth of Pennsylvania.

18 The law that we had would have had to be reformed,
19 but I'm glad we supported the Murphy-Dawida Amendment.

20 Bill also made some disparaging remarks, and some
21 really untrue remarks about AAA insurance, our insurance
22 program. It is true that our largest club has an insurance
23 agency, which is the Keystone Club. That is one of 31 clubs
24 in Pennsylvania.

25 Some of our clubs do sell insurance as a service to

1 members, at the request of the members. But there is no
2 conflict of interest there.

3 They want to sell the person the best and the cheapest
4 auto insurance that they can find. And those clubs are re-
5 presenting the members' interests, just as Bob Reese here,
6 from the Valley Club, wants to give the motorists the best
7 thing he can give. All the other clubs do too. We are not
8 representing insurance; we are representing motorists.

9 And finally, I talked about our Insurance Committee,
10 which makes policy decision that go to our Board of Directors
11 and our delegates. The Committee is not controlled by the
12 insurance industry; it's controlled by AAA.

13 I was the Executive Director or staff liaison to
14 the Committee for the seven years that I have been there.
15 The Chairman is a non-insurance person from Meadville who
16 has worked for the Meadville Club, and was manager and is
17 now retired. And it's a nine-member committee, some of whom
18 really are in the insurance industry, and some of whom are
19 not.

20 And it represents a good cross-section of -- it's
21 of people who are motorists, and represents the motoring
22 public through their organization of AAA. We don't work for
23 the insurance industry, we don't represent that.

24 So that maybe I took four minutes. I'm sorry, if
25 it was only three minutes, for the chance to give a rebuttal.

1 CHAIRMAN STUBAN: Thank you. I appreciate your taking
2 your time. Our next people that will testify are Fred Yetter,
3 Director of Customer Service of General Data Systems, Incorporated,
4 and Dave Snyder, who represents Nationwide Insurance
5 Company. We are going to take a recess to give our secretary
6 a minute to break.

7 (Recess.)

8 Whereupon,

9 FRED YETTER and DAVID SNYDER
10 having been called as witnesses, testified as follows:

11 CHAIRMAN STUBAN: Okay, Dave, go ahead.

12 MR. SNYDER: Distinguished Chairman and members of
13 the House Transportation Committee, ladies and gentlemen;
14 Representative Stuban, you are to be commended for holding
15 this hearing to inform the public today, and especially
16 because of its historic nature, perhaps one of the first times
17 in which a hearing has been broadcast live minute by minute
18 so the public can hear all the nuances and all the specifics
19 as they are able to hear them today on radio station WBRX.

20 Nationwide Insurance is the second largest writer of
21 automobile insurance in the Commonwealth, insuring more than
22 650,000 vehicles. In addition, we are a member of the Insurance
23 Federation, and we serve on the Board of Directors of the
24 Pennsylvania Motor Vehicle Insurance Collection Services,
25 Incorporated, the corporation established to collect the CAT

1 Fund charge to implement the settlement agreement in two
2 lawsuits: Carol Jones versus Muir and Insurance Federation
3 of Pennsylvania versus Muir, and that settlement agreement
4 was approved by the Commonwealth Court of Pennsylvania.

5 Representing Nationwide Insurance, I am pleased to
6 have this opportunity to set forth for the record certain
7 facts which have recently been obscured by emotional reaction,
8 often bordering on hysteria, in relation to the new automobile
9 insurance law and the Catastrophic Loss Trust Fund, or CAT
10 Fund.

11 As public policymakers, you obviously have a difficult
12 task. You have heard often ill-informed criticism of the
13 new automobile insurance law and the CAT Fund. You have seen
14 some media accounts which are factually misleading and grossly
15 unfair. You have received hundreds of constituent inquiries,
16 many of which are strongly emotional and many of which are
17 based on simple misunderstandings.

18 I am, therefore, pleased to be here for the purpose
19 of providing information and to dispel, to the extent possible,
20 some of the inaccurate impressions. We view our participation
21 today as part of the service to our more than 650,000 policy-
22 holders and to the public.

23 Had the old no-fault law remained in effect, we
24 estimate that Nationwide Insurance would have been completely
25 justified in increasing its rates by 10 percent in October of

1 last year. Instead, because of the change in the law,
2 Nationwide granted many of its policyholders overall reductions
3 in the range of five percent to 15 percent for their entire
4 premium packages.

5 The savings became even more significant when you
6 compare the cost of the unlimited first-party medical benefits,
7 the old PIP coverage, under no-fault with a cost of roughly
8 comparable benefits under the new automobile insurance law.
9 Here we have passed on savings of more than 35 percent for
10 this particular, much discussed coverage.

11 When the expected increase under the repealed no-fault
12 law is added to the savings actually passed on to many Nation-
13 wide policyholders under the new law, savings in total premiums
14 are in the range of 15 percent to 25 percent. Therefore,
15 Nationwide Insurance is striving to fulfill its commitment
16 to do the very best that it can for its policyholders.

17 We have seen information supporting the view that
18 the majority of the automobile insurance market in Pennsylvania,
19 at least 60 percent of Pennsylvania policyholders, have seen
20 rates which have not increased, or have actually decreased
21 under the new automobile insurance law.

22 This record of holding the line, or reducing insurance
23 premiums, is in stark contrast to continued increases in
24 litigation costs -- that is the frequency of claims that are
25 being brought and the amounts that the courts are paying --

1 health care costs and automobile repair costs. It is also
2 in stark contrast to the often heard claim that policyholders
3 are paying more and getting less.

4 But this is not the main purpose of this hearing,
5 although the subject of insurance rates has come up. We
6 understand it is to be focused on the Catastrophic Loss Trust
7 Fund or CAT Fund.

8 But before I trace the history of the legislation
9 which established that fund, I would like to say emphatically
10 that the CAT Fund was neither proposed nor desired by the
11 insurance industry. Looking at how the Motor Vehicle Financial
12 Responsibility Law evolved and the CAT Fund as well, there
13 are many, many players, many interested parties that got
14 little bits and pieces of what they wanted in the legislation.

15 And as Edmund Burke said more than 200 years ago,
16 "All government, indeed every human benefit and enjoyment,
17 every virtue, and every prudent act, is founded on compromise
18 and barter."

19 And the CAT Fund is no more than or no less than that.
20 Now, let's trace some history.

21 The old no-fault law provided for unlimited medical
22 benefits, and it was this feature, above all others, which
23 was causing the rapid premium increases, for which there
24 were constant and bitter complaints.

25 Indeed, the no-fault law was controversial almost from

1 the time it was passed, and in excess of 107 bills were intro-
2 duced to amend or to repeal it.

3 No-fault premiums were doubling every five years. And
4 as premiums for the mandated unlimited coverage increased, fewer
5 people could afford it to the point where it was estimated
6 that 10 to 20 percent of motorists in Pennsylvania were going
7 without insurance, even though the law required them to buy it.

8 In contrast, the new law offers consumers the oppor-
9 tunity to choose different levels of coverage and to pay
10 accordingly. Insurance under the new law is not mandatory.

11 If you buy insurance, you are now required to carry
12 only \$10,000 in medical benefits. If you want and can afford
13 more coverage, you can purchase it. We do hope that more
14 people will buy at least minimum coverage, because now it is
15 within their financial means to do so.

16 There were two major problems under the old no-fault
17 law, as I recollect those problems. First is the premium
18 increases for the people that were required to pay for unlimited
19 benefits. They were required to buy a Cadillac even though
20 they wanted to buy a Chevy.

21 Secondly, people avoided the responsibility to buy
22 insurance. There were scofflaws, and there was the perception
23 that there was no penalty if they violated the law.

24 The CAT Fund was brought into being by interested
25 parties because they felt they wanted to see some mechanism

1 at least to cover catastrophic injuries. As an alternative,
2 we believe we could make available coverage equivalent to
3 the CAT Fund.

4 Nationwide has estimated that it could charge \$25.00
5 per vehicle per year, on a statewide average, to provide
6 this benefit. In some regions of the state, the cost would
7 actually be less and in others, it would be higher.

8 You have heard other speakers today testify as to
9 the fact that the CAT Fund Board is composed of as Chairman,
10 the Insurance Commissioner, the four members appointed by
11 the Governor, and a number of representatives of the Legislature
12 serve on the governing body of the CAT Fund Board.

13 That CAT Fund Board is an administrative agency of
14 the Insurance Department. It is a governmental agency. It
15 is not a part of the insurance industry. The administration,
16 which was a principal proponent of mandatory benefits, sought
17 to require insurers to collect the CAT Fund charge, and this
18 was last summer.

19 This approach was embodied in three separate sets of
20 regulations, but was disapproved by the Senate Banking and
21 Insurance Committee, by the House Insurance Committee, and
22 three times by the Independent Regulatory Review Commission
23 after extensive hearings, indeed days of hearings and meetings
24 on the subject.

25 The matter went into court, and the courts agreed with

1 the judgment of the legislative committees and the Independent
2 Regulatory Review Commission. They directed PennDOT to
3 collect the Catastrophic Loss Trust Fund charge, at least on
4 an interim basis, because (a), it was cost efficient, the
5 most cost efficient approach; and (b), it would permit PennDOT
6 to enforce the law that requires PennDOT to deny the regis-
7 tration of motor vehicles if that CAT Fund fee isn't paid.

8 And the legislation, the letter of the legislation
9 concerning the CAT Fund fully supports the determination of
10 the legislative committees, the courts and the Independent
11 Regulatory Review Commission. And that determination is that
12 we and our policyholders should not be saddled with the cost
13 of the CAT Fund collections.

14 The Department of Transportation is required to
15 deny registration if that CAT Fund fee isn't paid. And that
16 is called before-the-fact enforcement, not after the fact.
17 The failure of the administration's proposal to effectively
18 provide for compliance with the law and its requirements on
19 PennDOT was a major reason for rejecting the Department's
20 regulations.

21 Further, under the administration's proposals, the
22 fee would only have been collected against insured drivers,
23 where the statute is clear that all owners of registered
24 motor vehicles, with a few exceptions, are required to pay
25 that amount.

1 We believe that our policyholders, who are responsible
2 enough to buy insurance, should not be the only ones to pay
3 the CAT Fund fee. And only a system using PennDOT registration
4 information will guarantee this universal payment.

5 Insurance policy renewals, on the other hand, are
6 in no way synchronized with PennDOT registration renewal
7 information.

8 Finally, requiring roughly 250 insurance companies to
9 maintain separate records, to report to PennDOT quarterly
10 or even monthly, would have caused expenditures of up to
11 25 million dollars for system changes in the first year alone,
12 to collect the Catastrophic Loss Trust Fund charge.

13 And I summarized in my testimony the findings of the
14 Independent Regulatory Review Commission after several days
15 of hearings, and those findings say what I have just said.

16 Now, all of these reasons support collection of the
17 CAT Fund charge by PennDOT. PennDOT is the most efficient
18 collection mechanism.

19 Yet it has been the position of the Department of
20 Transportation, and some others, that PennDOT, though the
21 most efficient collecting agent, should not be in the business
22 of collecting the Catastrophic Loss Trust Fund charge. And
23 this is a policy determination, one not based on PennDOT's
24 capabilities, because as early as the spring of last year,
25 PennDOT officials indicated that they were ready, willing and

1 able to collect the CAT Fund charge.

2 Now, considering you have had a basic impasse where
3 the facts were that it would cost a prohibitive amount of
4 money for the insurance industry to collect that, and you had
5 the most efficient collecting mechanism there, that is PennDOT,
6 denying responsibility to collect it, a compromise was
7 necessary. Once again, a compromise, in this area of compro-
8 mises.

9 And to settle the matter, a non-profit corporation
10 was established to collect the CAT Fund charge. Now, that
11 corporation was established by the insurance industry.

12 We felt that we were going to win in that litigation.
13 We also knew that this litigation, which had dragged on since
14 December of last year, was creating a ticking time bomb,
15 and this time bomb was that there were injured people out there
16 who were becoming eligible for the CAT Fund monies, yet there
17 were no monies to pay for those people.

18 Understanding that, we took it upon ourselves to
19 propose a settlement to the Insurance Department to end the
20 litigation and to get on with the collection of the CAT Fund
21 fee. And that was to create a non-profit corporation.

22 On the Board of Directors are nine major insurance
23 companies and two insurance agency groups. Each of the
24 insurance companies provided that corporation, for start-up
25 costs, a \$10,000 interest-free loan.

1 The representatives of the insurance companies who
2 serve on this Board, and have contributed hundreds of hours
3 to the functioning of the collecting agency, have not received
4 a dime and will not receive a dime from the CAT Fund charge
5 payments. Likewise, the Executive Director so far has been
6 providing his time free of charge to the collecting company.

7 To date, this company has collected, as has been
8 previously testified to, almost 35 million dollars, which is
9 now available to pay for the catastrophically injured people
10 in this Commonwealth.

11 And each day, each day that new monies come in, it is
12 invested on a daily basis, and this money is earning interest
13 at this point.

14 Now, there are some things that can be done with the
15 collection mechanism. One thing would be to go back to one
16 entity collecting both the CAT Fund fee and the registration
17 renewal fee. Whether that entity is PennDOT or a non-profit
18 corporation or a private contractor in this case, the savings
19 would be something in excess of four million dollars.

20 You can tinker with the present system and you can
21 save in excess of a million dollars and totally eliminate the
22 stamp part of the collection efforts, and we would recommend
23 that that be done and would be fully supportive of that.

24 Under this alternative, the billings would go out,
25 the payments would be mailed back to the contractor, the vendor,

1 and the vendor would simply interface with PennDOT, and there
2 would be no need for a stamp system. That would save something
3 like 1.2 million dollars, and again those savings would be
4 almost immediately.

5 Now, no one can guarantee that the \$5.00 fee, CAT
6 Fund fee, will stay where it is today. What we can say is
7 that prompt and full payment by the maximum number of motorists
8 earning the maximum interest improves the chances that the
9 \$5.00 charge will not soon be increased. Nonetheless, only
10 experience will prove the adequacy of \$5.00.

11 At least today you could certainly say that the CAT
12 Fund is a bargain. Should there be sentiment to abolish the
13 CAT Fund, I know there is only one good alternative as we
14 see it. And that is to require insurers to make available
15 coverage equivalent to the CAT Fund and to permit us to charge
16 a premium appropriate for that risk. You would need to do
17 something in the interim for those who are already eligible
18 for the CAT Fund.

19 In summary, the new automobile insurance law was a
20 compromise of many contending claims and the voices of many
21 interest groups. The insurance industry was only one of those
22 groups.

23 Although the final legislation was not entirely what
24 we desired, we at Nationwide have done our best to live within
25 its confines and to provide the very best coverage at the

1 very least price. Accordingly, we have tried to significantly
2 reduce our rates, especially when those rates are seen in the
3 context of the higher rates that would have been charged had
4 the old no-fault law remained in effect.

5 We understand that the particular focus of this hearing,
6 the CAT Fund, is extremely controversial at this time. But
7 it was a compromise among competing interests.

8 We in the insurance industry knew that unlimited
9 benefits in the past were a major contributing factor to
10 skyrocketing no-fault insurance rates. The net result of
11 these increasing no-fault premiums were to impose an involuntary
12 financial hardship on many, and to drive more and more people
13 from insurance into the unlawful practice of carrying no
14 insurance whatsoever.

15 Instead, we do prefer a system where people are free
16 to purchase the amount of insurance coverage that they want
17 and they can afford. And the new law is a major step in
18 that direction.

19 But there were other interests which demanded some kind
20 of catastrophic loss coverage, and that is why the compromise
21 that you have today was embodied in the law.

22 That concludes the prepared portions of my testimony.
23 There were several issues which have come up today which I
24 would like to address, and then I would be very pleased to
25 take the questions that I am sure the Committee members have.

1 The first is this matter of public information. The
2 legal responsibility for publicity for the CAT Fund, or the
3 program, was very clearly placed in the Executive Director
4 of the CAT Fund. The Executive Director of that CAT Fund has
5 been on an acting basis, but also has been an employee of
6 the Insurance Department.

7 We did what we could to publicize this billing. On
8 May 13th, we sent out media notices to over 300 media outlets
9 in this state. And you know what happened on May 13th.
10 The police dropped a bomb on the MOVE headquarters, and not
11 only did it destroy some buildings, but it wiped the subject
12 of that CAT Fund right off the front page, and the CAT Fund
13 billings went out two days later, and that created the first
14 public information problem.

15 Since that time, and it has been a delayed effort,
16 but since that time, the Insurance Department and the Executive
17 Director of the CAT Fund and others have increased their public
18 information efforts. And we would hope that they would continue
19 to do so.

20 But it is important to note that the legal responsi-
21 bility for publicity for the CAT Fund, and about the program,
22 lies with the Executive Director of the Catastrophic Loss Trust
23 Fund Board.

24 The subject has arisen today as to whether we ought
25 to have a CAT Fund, and I have summarized a lot of those aspects

1 in my testimony. But it was really interesting to hear two
2 consumer groups testify at a hearing held on this same subject
3 in Philadelphia about a month ago.

4 Rita Wickers (phonetic spelling), who was featured
5 in a Philadelphia Inquirer editorial, she called around and
6 tried to get information on the CAT Fund and she wasn't satis-
7 fied with that information, and collected 3,000 signatures
8 on a petition.

9 And she was asked what those signatures meant and
10 what she was testifying to that day at the public hearing.
11 And she said basically, "I want the CAT Fund repealed. We
12 want the state out of the insurance business. We want to be
13 able to buy the amount of insurance that we decide that we
14 want and we can afford." Her testimony was to that effect.
15 There were some questions, she sat down.

16 Max Weiner (phonetic spelling), representing another
17 consumer group, got up and said to the effect that, "The
18 CAT Fund was the best thing that ever happened to consumers,
19 and indeed, we ought to have more CAT Funds."

20 Starting from this lack of public consensus, it is
21 no wonder there is a controversy now. It's no wonder there is
22 a controversy that you are dealing with as members of the
23 Legislature, and that there is a controversy in the public.
24 I don't see a resolution to that.

25 We do have a system that provides for certain things.

1 It provides for an enforcement mechanism, and we are doing what
2 we can in the insurance industry under the circumstances to
3 try to make it work.

4 The third issue, after you dealt with the public
5 information issue, which is very real and is a continuing
6 problem, and the second one is whether there ought to be a
7 CAT Fund at all.

8 The third issue is the collection mechanism. And I've
9 summarized basically the way we view that subject. The most
10 cost efficient way, and the way most consistent with the
11 enforcement provisions now in the statute, would be to have
12 one entity do it, whether it's PennDOT or an outside vendor.
13 We understand that there may be very real political problems
14 with that.

15 Something that can be done with the system almost
16 immediately is to eliminate the stamp part of it, and we
17 would recommend that that be done. This concludes my remarks,
18 and I would be pleased to take the questions that I know you
19 have. Thank you.

20 CHAIRMAN STUBAN: Fred, do you have a statement?

21 MR. YETTER: Just by way of history. Mr. Chairman,
22 in April of this year, General Data Systems of Philadelphia
23 entered into a contract with Insurance Collection Services
24 to develop an accounts receivable system with an ability to
25 process and maintain a full history for seven million registered

1 drivers in the State of Pennsylvania.

2 Consequently we contacted and set up agreements with
3 a bank, a mailing company and various forms companies. On
4 May 15th, we mailed out the first year-end invoices, from
5 May 15th to June 15th, which was approximately seven million
6 invoices. And since July 3rd, have been mailing out, on a
7 monthly basis, the registrations that fall due within 90 days
8 from that billing date.

9 In addition, we maintain both a toll-free number
10 and a post office box in Philadelphia. And we control the
11 sales, the sticker sales window in Harrisburg.

12 CHAIRMAN STUBAN: Thank you. Anybody have questions?
13 Representative Lloyd.

14 REPRESENTATIVE LLOYD: Mr. Snyder, I'm interested
15 in some figures that you used, and I want to make sure I
16 understand them in the right context.

17 You said that Nationwide could provide the same
18 coverage as the CAT Fund, but that it would cost \$25.00 instead
19 of \$5.00. Is that right?

20 MR. SNYDER: \$25.00 per car per year on a statewide
21 average.

22 REPRESENTATIVE LLOYD: Now, when you came up with
23 that estimate, were you assuming that this was voluntary
24 coverage? In other words, that is what you would charge if
25 people didn't have to buy it and they came to you and asked you

1 for it? Or were you assuming that this would be the price
2 if we said that everybody has to have this and you have to buy
3 it from your insurance company?

4 MR. SNYDER: As I understand it from our actuarial
5 department, that is their estimate, and it's not particularly
6 sensitive to the exact numbers who actually purchase it.

7 REPRESENTATIVE LLOYD: Well, that is interesting
8 because, of course, we have heard the argument that the reason
9 why we shouldn't have the insurance companies doing this is
10 because we need to be sure that we get all the uninsured
11 motorists paying into the fund, because that helps to keep
12 the costs down.

13 But you are the second largest insurance carrier in
14 the state for auto policies, if I understand your testimony,
15 and you are saying that it doesn't really matter very much
16 how many people buy the coverage from your company. The price
17 is going to be \$25.00. That doesn't seem to be consistent
18 with what Mr. Titelman and other people have testified to
19 earlier today.

20 MR. SNYDER: I think what I am saying is that there
21 isn't a particular figure that is assumed there. I think it
22 is assumed that the majority, the vast majority of our
23 policyholders would select the coverage. I think that is the
24 assumption there, but there is no exact -- in other words,
25 the estimate wasn't prepared with -- well, if you had three-

1 quarters buying it versus two-thirds.

2 It's my understanding that the figure wasn't based
3 on those kind of assumptions, but I think the basic assumption
4 was that the majority, vast majority of our policyholders,
5 would select it.

6 REPRESENTATIVE LLOYD: If you were going to collect
7 this as part of the regular policy, what would be the collection
8 -- incremental collection costs to Nationwide?

9 MR. SNYDER: I'm not sure I know exactly what you
10 mean. You mean the cost to provide the coverage?

11 REPRESENTATIVE LLOYD: We have seen and heard all
12 kinds of figures today that it's going to be 10 million, 40
13 million, 30 million if the insurance companies had to collect
14 this money. And a lot of us are finding it hard to understand
15 that, because I get a piece of paper twice a year from your
16 company that says how much I owe. And, you know, you put
17 all kinds of little ditties on that that have nothing to do
18 with, you know, how much the insurance is.

19 And what I am getting at -- and it wouldn't seem to
20 be that difficult, to put another line on there that says,
21 "Catastrophic Loss Fund, \$5.00." Why is that going to be
22 such a costly thing to do?

23 MR. SNYDER: We estimate that it would cost us
24 \$97,000 for the first year for system changes. Under the
25 Department's regulations, we would be required to make reports

1 to the Pennsylvania Department of Transportation periodically,
2 and that changed with each reiteration of regulations.

3 I think it was a quarterly, and I think the last one
4 was a monthly report. And the reason why that is is an
5 effort to try to interface PennDOT with the insurance companies,
6 in this case Nationwide, which there are many, many reasons
7 why that proposal wouldn't work.

8 But we estimated \$97,000 in system changes the first
9 year, and this does not include reporting costs to make these
10 reports on a periodic basis, and -- pick your period -- to
11 the Pennsylvania Department of Transportation.

12 Now, when you assume then that there are roughly 250
13 insurance companies writing automobile insurance in Pennsyl-
14 vania, and assume that their costs are roughly going to be
15 what your costs are, because we are not talking about volume --
16 I mean, these are system changes. And indeed, with some
17 companies who are on a paper basis, particularly the smaller
18 companies, their costs, it is assumed, would be even higher.

19 And you take this \$97,000 figure and you round it
20 to a hundred thousand dollars, if anything is that precise --
21 so we felt that was fair. You multiply that by 250 insurance
22 companies, get a 25 million dollar figure for the first year
23 alone, and that isn't even including the reporting costs,
24 you know, for the Fund.

25 REPRESENTATIVE LLOYD: What is the second year?

1 MR. SNYDER: As I understand, all right, now it would
2 be probably less the second year which - - -

3 REPRESENTATIVE LLOYD: You don't have anything to
4 reframe the second year.

5 MR. SNYDER: Right.

6 REPRESENTATIVE LLOYD: You have it in your system.

7 MR. SNYDER: You have your continuing reporting costs.

8 REPRESENTATIVE LLOYD: If we drop the reporting
9 requirement -- because one of the things which has boggled
10 the minds of many people today is why we are going to such
11 great lengths to make sure that people pay \$5.00 for the
12 catastrophic coverage, when we are doing very little, for all
13 kinds of different reasons, to make sure that I buy the basic
14 insurance coverage.

15 So one thing that has occurred to me we do -- especially
16 since, by your testimony, there doesn't seem to be that much
17 sensitivity to the price the consumer pays for however many
18 people get into the program -- one of the things that occurs
19 to me we do to try to help you meet those costs would be to
20 drop that reporting requirement; there would be no reporting
21 requirement, that didn't exist, with regard to the rest of
22 the insurance package that you sell.

23 MR. SNYDER: Well, there are a couple reasons. First
24 of all, under current law, you would have to change the law.

25 REPRESENTATIVE LLOYD: I am assuming that.

1 MR. SNYDER: More importantly than this is a mechanism
2 that can readily be used without any change in the law being
3 required, and that is simply to have PennDOT do the billing
4 both at the same time. And the price for that before-the-fact
5 enforcement, that is a more effective enforcement tool than
6 we had under the old no-fault.

7 REPRESENTATIVE LLOYD: It's more effective, but it
8 doesn't seem, based on the findings from your company at
9 least, it doesn't seem that whether we have three million
10 or four million people paying in is going to have very much
11 influence on the cost.

12 And if that is so, then going to all these great
13 lengths to make sure we collect \$5.00 doesn't seem to be all
14 that important.

15 MR. SNYDER: Well, again, I'm not sure you could
16 characterize our testimony on how we base the \$25.00 figure
17 quite in that detail. And I would be pleased to provide you
18 additional information on exactly what those assumptions were
19 that were made by our actuaries. I didn't ask if this does
20 assume a particular level at the time, but I feel certain that
21 it assumes the vast majority of policyholders would select
22 the higher level of coverage.

23 The point, it seems to me, that we need to go back
24 to the history under the old no-fault law. And one of the
25 things that just bugged the heck out of people was that there

1 were a lot of people out there who were required to buy
2 insurance and they weren't buying it.

3 And I think the compromise in this case was at least,
4 "Let's make sure that everybody is contributing that is
5 required to contribute into the CAT Fund," and the best way
6 to do that is to make it a precondition of motor vehicle
7 registration. Because at this point anyway, everybody that
8 drives a vehicle has got to interface with the state.

9 REPRESENTATIVE LLOYD: And it also could be accom-
10 plished by saying that those people who don't contribute
11 to the fund can't collect from the fund.

12 MR. SNYDER: Well, that is another enforcement
13 mechanism that is right in the new law.

14 REPRESENTATIVE LLOYD: We don't have to go through
15 all these gyrations in order to take care of the uninsured
16 motorist problem.

17 MR. SNYDER: That -- I would say that the combined
18 enforcement for the CAT Fund should be more effective than
19 simply down the road making someone ineligible. I think the
20 before-the-fact enforcement - - -

21 REPRESENTATIVE LLOYD: Why? Because unless you could
22 demonstrate to me it would be \$10.00 or \$15.00 without that,
23 then I can't see why we go through all the efforts for the
24 enforcement.

25 MR. SNYDER: Well, if you assume that we had 20

1 percent not paying the CAT Fund fee, as there were 20 percent
2 or 10 to 20 percent not insured, you deduct the 20 percent
3 of the payments that the CAT Fund is now getting, and then
4 you would likely have to increase the CAT Fund for everyone.

5 REPRESENTATIVE LLOYD: Well, if that is -- we come
6 back to the number that you give and that, I am sure, every
7 other company will give, as to what it would charge if it
8 were providing this coverage directly rather than through
9 the CAT Fund.

10 And it doesn't seem, based on what you have said --
11 and I realize that your actuaries aren't here -- but it
12 doesn't seem that how many people participate makes a wild
13 amount of different.

14 And so, it just seems to be inconsistent with the
15 argument that we have to make sure that everybody pays into
16 the fund. So if you can get information about that, I would
17 be happy to look at it.

18 Now, I would assume that if it would cost you \$25.00
19 to provide that benefit, that my premium went down by \$25.00
20 when you were relieved from the responsibility of providing
21 that coverage; would I be correct in assuming that?

22 MR. SNYDER: As a matter of fact, you were basically --
23 let me give you an example here from this geographic area of
24 the state. Let's assume a person using a vehicle for pleasure
25 use, but driven over 8,000 miles a year, and we think that is

1 a fair assumption for many, many vehicles that we insure.

2 The basic PIP, under the old no-fault law, would have
3 cost \$54.30. The new MVFR minimum medical would cost \$25.40,
4 so it actually went down more than the \$25.00 that you are
5 talking about.

6 REPRESENTATIVE LLOYD: All right. Let's make sure
7 we are making comparisons between apples and apples. Let's
8 assume that I wanted to maintain coverage up to a hundred
9 thousand dollars.

10 MR. SNYDER: All right.

11 REPRESENTATIVE LLOYD: What would I have paid?

12 MR. SNYDER: Then your premiums would have gone down
13 \$20.00, \$20.00 and some odd cents. But your premiums would
14 have adjusted in other ways by the law, and I think that is
15 roughly what happened.

16 REPRESENTATIVE LLOYD: It would have gone down to
17 \$34.00 - - -

18 MR. SNYDER: Right, 34.

19 REPRESENTATIVE LLOYD: - - - if I maintained the same
20 coverage?

21 MR. SNYDER: Right. Then over and above that would
22 be a 10 percent discount for a policyholder, for a long-term
23 policyholder. So you could, for many of the policyholders,
24 take an additional 10 percent.

25 REPRESENTATIVE LLOYD: Why is it that your company

1 was able to reduce rates and so many other companies were not?

2 MR. SNYDER: Our understanding is that about 60 percent
3 of the policyholders in Pennsylvania either were paying the
4 same for comparable coverage, or paying slightly less. I could
5 only speculate as to why the reaction in the insurance market-
6 place was not uniform.

7 I think that there were some companies that worked
8 from different assumptions than we did. Insurance is not a
9 collection of a few companies or a monopoly utility situation.
10 But companies react to changes in the law and - - -

11 REPRESENTATIVE LLOYD: I think I heard you testify
12 about that, or somebody from your company testify about it
13 not being a monopolistic situation in Philadelphia a couple
14 years ago when you were opposing the Consumer Advocate for
15 insurance, and you made the case that the insurance industry
16 is a competitive industry.

17 We don't regulate other industries that have ten,
18 15, 20, 30 different competitors; why should we regulate the
19 price-setting of insurance companies? And if you look at it
20 in a purely academic sense, there seems to be some logic to
21 that.

22 But when we look at what happened, there isn't --
23 something seems to be wrong somewhere; the free market system
24 isn't producing the result that we would have expected.

25 We would have expected to see all kinds of ads on

1 television, "Come to Nationwide, because under the new insurance
2 law, Nationwide is one of only two or three or four companies
3 in the whole state which reduced their rates. Come to us,
4 come to us." I haven't seen those ads.

5 MR. SNYDER: Well, I'll be sure to recommend that to
6 some people.

7 REPRESENTATIVE LLOYD: I am not being facetious.

8 MR. SNYDER: Right.

9 REPRESENTATIVE LLOYD: If the free market system
10 is going to work, and you are going to bid down the price
11 so that, you know, the free market will set it, then people
12 have to know what your prices are.

13 And if you are able to do something that a lot of
14 companies in the state haven't been able to do, you could
15 do the insurance industry and the Legislature a great favor
16 by advertising that, and then you would be ending up doing
17 the consumers of the state a great favor.

18 MR. SNYDER: A point well taken.

19 REPRESENTATIVE LLOYD: My last question was whether
20 you have any figures at all that would show how many, or
21 what additional percentage of drivers, have bought insurance
22 because they now get a Chevy policy instead of a Cadillac
23 policy.

24 MR. SNYDER: I don't have those figures with me but
25 I will be pleased to see what I can do to provide them to you.

1 REPRESENTATIVE LLOYD: That is one of the major argu-
2 ments from the proponents of this bill in the Legislature; that
3 if we just reduce the amount of insurance you had to buy,
4 a lot more people would go out and buy it.

5 And I guess my one other comment would be, in talking
6 to Mr. Titelman after he had testified, he is going to present
7 us with a comparison of rates for what other companies were
8 able to do or weren't able to do as far as lowering them.

9 But one thing we talked about was the fact that some
10 people might have been able to save money except for the
11 fact that they used to get their Blue Cross-Blue Shield to
12 pay for the primary -- for their health coverage if they had
13 an auto accident. Now, they are no longer able to do this,
14 and that has either offset or more than offset savings. Is
15 that a fair summary of what happens to some people?

16 MR. SNYDER: And I suspect the reason why automobile
17 insurance is now primary and you don't have a choice is because
18 the employers in the state wanted it that way. And I suspect
19 that they are seeing reductions in their medical benefits cost
20 because of the inability of the people to choose their health
21 insurance over their automobile insurance.

22 REPRESENTATIVE LLOYD: Do you have any figures that
23 would show whether those 40 percent of the people that you
24 say are the only ones whose rates have gone up, what percentage
25 of those, that 40 percent, might be because of this change in

1 first-party coverage?

2 MR. SNYDER: I'll sure do what I can - - -

3 REPRESENTATIVE LLOYD: It seems that would be pretty

4 relevant if it turns out that is a very high percentage.

5 Then maybe some of the criticism directed against the insurance

6 industry has been unfair if it turns out that is a high per-

7 centage. I think we are back where we started then and to

8 Mr. -- I don't know your - - -

9 MR. YETTER: Yetter.

10 REPRESENTATIVE LLOYD: We have heard here today a

11 real buck-passing operation. And I don't blame you because

12 I don't, at this point, know who is right.

13 But we heard the Insurance Department say this morning

14 that the responsibility for promoting that program -- all

15 the Insurance Department is supposed to do is make people

16 aware that the money is available to them, and "Get your

17 money if you have an accident."

18 They weren't responsible and aren't responsible for

19 telling anybody how this system is supposed to work to pay

20 it in; that is your job. You and Mr. Titelman have all said

21 no to this, Mr. Kirschner said no; that the law says the

22 Insurance Department is responsible for doing that.

23 I'm not sure how we are going to resolve that without

24 going to court, but it seems to me that the insurance industry

25 ought to be banging on George Grode's door for a meeting

1 immediately to get something on television to explain to
2 people that they are not being billed for something that they
3 have private coverage for; that already takes care of them.
4 To explain to people what they do when they can't get through
5 on the toll-free number; to explain to people that if they
6 get a sticker and they no longer need their sticker they can
7 sell it to somebody else.

8 All kinds of practical questions: to explain to them
9 the fund is being audited and the people aren't running off
10 with the money; to explain to them what you just, or what Mr.
11 Snyder just went through in his testimony about how your
12 people are contributing all this money and their time and not
13 being paid -- and all this is assuming that this is verifiable
14 -- and not being paid from some other source.

15 Now, those are the kind of things that the average
16 guy in the street, when he comes to his legislator and complains,
17 he things it's a rip-off because he thinks he's being required
18 to pay for something that he already has.

19 I find, when I start questioning, find a lot of
20 people have it confused with liability coverage. And they
21 say, "Well, I have got so many hundred thousands of dollars
22 after this," and, you know, I try to explain to them but
23 that is somebody's job. That is not my job.

24 That is either your job or it's George Grode's job.
25 I think it's up to you folks if you don't want this law

1 repealed. You know, it's up to you folks to do something to
2 clean up that act.

3 And it's not satisfactory to come in and everybody
4 points the figure at everybody else, and whoever the first
5 finger is pointed at runs back to Harrisburg; that just won't
6 cut the mustard.

7 MR. YETTER: I think the easiest way for me to answer
8 that is generally we are the lowest person on the totem pole
9 here. We have a subcontract. We are the subcontractor. It
10 is specified in our contract what we do.

11 We bill the individuals in the state. We print the
12 stickers. We maintain the hot line, and we maintain the
13 post office box, and that is basically -- other than certain
14 specifications -- the envelope is such and such a size and
15 so on, that is basically what we do.

16 However, what I found pretty quickly is whenever there
17 is a problem here, whether it's my responsibility or not, I
18 have that problem.

19 Our hot line is -- or toll-free number is swamped
20 with calls. As is the DGS switchboard as is the single phone
21 that we maintain in the window sales in Harrisburg, as is
22 our post office box. Because people do not know some of the
23 rudimentary features of the CAT Fund.

24 I believe, to my knowledge, it may be Mr. Frank
25 Holczman, the Executive Director of ICS -- it may be in his job

1 description that he has to do something in the way of publicity.
2 It's also my understanding that as the acting Director of the
3 CAT Fund, he is the one primarily responsible for that
4 publicity.

5 Now, we have worked with pretty much everybody because
6 we are a focal point here for the input coming in. We know
7 what kind of questions that people are asking. We have
8 assisted in modifying the brochures that go out.

9 All this initially was spelled out by contract word
10 for word, letter per letter. The i's were dotted and we
11 followed that contract.

12 REPRESENTATIVE LUCYK: Let me ask you a question.
13 When you bid on the contract, okay, did the contract specify
14 exactly what you were to do as the subcontractor? In other
15 words, were you presented with the system of sending out the
16 notification, when you got the \$5.00 to send out a sticker,
17 right, of certain specifications, you know?

18 Get the money or the money goes back to the bank;
19 were you able in this contract -- was it that you would main-
20 tain one telephone line, that you would do this, you would
21 do that? And who issued -- who issued the specifications as
22 such for this program?

23 Now, if you say, "That was the contract we bid on,"
24 then I have no further questions to you because it's out of
25 your hands. We are looking -- I'm looking not at the validity

1 of the program or anything else. I want to know who screwed
2 the whole thing up. What did you bid on?

3 MR. YETTER: I was not involved in the bid procedure
4 on this. I came after the fact to administer the program.

5 REPRESENTATIVE LUCYK: I think everybody came in after
6 the fact.

7 MR. YETTER: Basically the contract, the proposal
8 with the specifications that we bid on then became the
9 contract, okay. Basically it didn't have -- it had a pricing
10 schedule.

11 REPRESENTATIVE LUCYK: In other words, you were
12 required - - -

13 MR. YETTER: But it said - - -

14 REPRESENTATIVE LUCYK: You were required by somebody
15 to provide some basic services.

16 MR. YETTER: Specifically spelled out in the contract;
17 correct.

18 REPRESENTATIVE LUCYK: Who wrote that? Could you
19 answer that? Who did that? Who designed the program?

20 MR. SNYDER: A lot of details of the program were
21 spelled out in the settlement agreement that was entered into
22 between the parties in the two lawsuits and approved by the
23 Commonwealth Court.

24 REPRESENTATIVE LUCYK: The sticker deal and the whole
25 thing?

1 MR. YETTER: I can't specifically say the sticker
2 aspect of it was in that, but it may well have been.

3 I can say there is a prime contract and a subcontract.
4 The subcontract agreement is entered into between General Data
5 Systems and Insurance Collection Services, Inc. The prime
6 contract is between PennDOT, the Insurance Department and
7 Insurance Collection Services.

8 The two contracts are identical. There is some slight
9 differences between the prime contract between the state
10 basically and ICS, and ICS's contract with GDS. But basically
11 all the specifics are there. So I would assume that that
12 contract would have come down -- the specifications would
13 have come down and not upward.

14 REPRESENTATIVE LUCYK: You didn't establish a hot line
15 out of the goodness of your heart.

16 MR. YETTER. This certainly was in the contract.

17 REPRESENTATIVE LUCYK: Somebody told you to do that.

18 MR. YETTER: Certainly, certainly.

19 REPRESENTATIVE LUCYK: The Legislature called for it
20 or, you know, you offered the services, or something like that,
21 you know. And really, you shouldn't be on the hot seat if you
22 are just following, you know, what you bid on when it was
23 established by somebody else. I want to get to the guy who
24 wrote the thing.

25 CHAIRMAN STUBAN: Fred, the problem that I think we are

1 sitting here having is that you established an 800 number, and
2 our offices couldn't get through on that. Finally somebody
3 sent out a letter, one of the Representatives, and said that --
4 they got you to establish another number that would answer
5 our constituency's problems, and I think what happened -- that
6 is another hot line number.

7 MR. YETTER: That's correct. And this line is busy
8 all day; all day long that line is busy.

9 CHAIRMAN STUBAN: Is that line being used by Repre-
10 sentatives, or did that number now become a public number that
11 everybody is using it?

12 MR. YETTER: There are some consumers that get through
13 on this line. I understand that there is -- I understand it's
14 being given out by a couple different organizations.

15 Short of changing the line, I can't stop people from
16 calling in. I mean, once we get a phone call, you know, we
17 don't know who is at the other end of the line. And we try,
18 you know -- people identify themselves, but I don't know
19 whether they were referred by a Representative or how they
20 got the number.

21 We try and help these individuals. Now, we have
22 increased the phone service and are going to increase the
23 phone service again. I think the problem is we are getting a
24 lot of calls that probably shouldn't come through on the phone.
25 We have seven million people that we have billed. If 10 percent

1 of those people call, that is 700,000 people. And I think
2 initially we did something that is very seldom done: we
3 billed seven million people at one time for one thing.

4 It's something PennDOT doesn't do, and now we are
5 on a month-to-month, but the original billing was seven million
6 people.

7 The hot line, the 800 number, was in the newspaper,
8 was printed in the newspaper, so we had people from Jersey
9 that worked in Pennsylvania calling us. We had people that
10 didn't drive calling us. We had people that aren't covered
11 by the CAT Fund, were not billed by the CAT Fund such as
12 motorcycle owners who were exempt calling us. And in that
13 case they wanted coverage.

14 Based on that volume of people calling, there is no
15 way -- I could probably add a thousand phones and could argue,
16 you know, 2,000. So I really think -- I say we are trying
17 to work with everybody and it is our problem.

18 It comes down to we have a problem as well as every-
19 bode else if the consumers don't understand it. That causes
20 me a problem. If they don't know where to send their invoice
21 and they send it to Philadelphia, to the post office box
22 instead of to the bank, I need people to handle that problem.

23 CHAIRMAN STUBAN: Well, see, the problem that we
24 have -- and I could understand, and as Representatives who
25 are concerned because of what happens here, and we see it on

1 many occasions, a piece of work might be mailed to PennDOT.

2 And it gets lost in the mail.

3 Now we have, let's say, a person check to see if your
4 check had been cancelled and come back from the bank. And
5 we could do that with the CAT Fund. But we can't get to PennDOT
6 and check to see if there has been a process. We can't get
7 to your offices to check to see if there has been that process.

8 And I guess from what we are hearing today, and the
9 Committee is hearing today, I guess our only answer is going
10 to be to have a special meeting with this Committee and the
11 Insurance Commissioner to specifically get our point across
12 to him.

13 Now, I don't know what may happen with this Committee
14 after it has that meeting, and what decisions are made on the
15 CAT Fund, but as far as now, I think it's of an immediate
16 emergency that we get some answers, that we could at least
17 tell our constituency when they give us a call.

18 We are putting you on the spot here. They give you
19 a specific contract and you have got to live within those
20 means and, you know, I could understand your situation.

21 So I guess that is our problem; that we are going to
22 request our Chairman to call that meeting and, Scott - - -

23 MR. CASPER: Absolutely.

24 CHAIRMAN STUBAN: - - - I wish you would take care of
25 that when you get to Harrisburg.

1 MR. YETTER: I would say I am available for any of
2 these meetings. I have made myself available I think for all
3 of the ones I have been asked to come to.

4 The telephone line, I know, is a primary concern to
5 everybody. As I say, we are getting calls now that are coming
6 in for me because enough people know my name now that are
7 flooding the GDS switchboard. And I can't handle all these
8 calls, you know; I physically couldn't do it. I'm only one
9 person.

10 Last month, or in July, we took 35,000 phone calls,
11 which is a substantial amount. It's about 1,200 a day, I
12 believe.

13 CHAIRMAN STUBAN: If you have a private line, before
14 you leave here today, I would appreciate - - -

15 MR. CASPER: You can leave your home number.

16 CHAIRMAN STUBAN: - - - having it. Michael? Repre-
17 sentative Veon.

18 REPRESENTATIVE VEON: Some things we talked about
19 before they said would be better directed to you. For example,
20 turnaround time. Do you have an idea - - -

21 MR. YETTER: Sure. I think there is a lot of con-
22 fusion about how this works. Number one, written documenta-
23 tion -- it again goes into a locked box banking operation
24 at Mellon Bank, which was mentioned earlier, and that is in
25 Pittsburgh.

1 When they get the document, when they get the remit-
2 tance, if they can process that remittance -- not cleared that
3 remittance, but it's made out properly for the CAT Fund for
4 the proper amount of money, the check is signed and so on;
5 we have set up some operating procedures that they follow.

6 If it clears that initial verification, if they get
7 that check on Monday, Monday night we get a wire transmission
8 from them that includes that data.

9 We will then apply that data to the data base. We
10 get an account number, which the system works -- functions
11 with tag numbers as the key. The license plate number is
12 the key. We get no names and addresses from the bank.

13 We get an account number, which is a conversion of
14 that tag number into an entirely numeric account number. We
15 then go to the data base, apply that \$5.00 payment, print a
16 sticker to the addressee, to the owner of that vehicle.

17 That is then picked up the following morning by a
18 company that does the mailing for us. The company that has --
19 the mailing organization, and it's normally mailed that day.

20 In some cases, because of the high volume, it may
21 carry over, some of the pieces, into the next day. But it's
22 basically -- that would be that 40 hours, 48 hours or some-
23 thing. That is the longest.

24 REPRESENTATIVE VEON: Okay. How many telephones do
25 you, in fact, have?

1 MR. YETTER: We have nine.

2 REPRESENTATIVE VEON: An 800 number first, then the
3 other number second?

4 MR. YETTER: 800 number is eight telephones. We have
5 one then for the fleet or out-of-state or direct inquiries for
6 people that are representing a group of people such as yourself.

7 REPRESENTATIVE VEON: One?

8 MR. YETTER: One phone, one of those.

9 REPRESENTATIVE VEON: For the record, Mr. Snyder,
10 you are with Nationwide. Are you here representing another --
11 in any way, the Board?

12 MR. SNYDER: Nationwide is one of the members of
13 the Board of Directors.

14 REPRESENTATIVE VEON: Okay. In your opinion, for
15 the record, will the rates go up? Will the CAT Fund fee go
16 up next year? I know you are speculating, but to the best of
17 your knowledge, using your best judgment.

18 MR. SNYDER: Let me clarify one thing. The CAT Fund
19 Board, which is a state agency, is the one that makes the
20 decision on whether or not the fee goes up or not.

21 REPRESENTATIVE VEON: I understand that Nationwide is
22 a member of that Board.

23 MR. SNYDER: Not a member of that Board. We are a
24 member of the non-profit collecting company.

25 REPRESENTATIVE VEON: Okay.

1 MR. SNYDER: With respect to your question, if it
2 goes up, the guesstimates I have seen is that it's not going
3 to go up \$15.00. It's not - - -

4 REPRESENTATIVE VEON: This year.

5 MR. SNYDER: It may not climb to ten. And Bill
6 Titelman, who testified before me, makes a very persuasive
7 argument for why it's not going to go up at all in the fore-
8 seeable future. I am less assured it's going to stay at five,
9 but I also would agree with Mr. Titelman that if it goes up,
10 it's not going to drastically increase all at once.

11 REPRESENTATIVE VEON: I think we should be honest.
12 We know that fee is going to go up. If it's not next year,
13 it's going to be the year after. As to how much, I think we
14 will have to find out, but I would be very surprised, in fact
15 shocked, if that fee stayed the same for a number of years.

16 And my other question, just as to the process to
17 determine whether that fee goes up; it's simply a majority
18 vote of the members of the Board?

19 MR. SNYDER: Of the CAT Fund Board, as I understand
20 it, and this is, I believe, a nine-member Board. The Insurance
21 Commissioner is Chairman. There are four public members
22 appointed by the Governor, and then four legislative members.
23 And they are all public meetings, and are wide open.

24 REPRESENTATIVE VEON: For the record, I think somebody
25 -- obviously we are going to have to do something about that.

1 If we allow that to continue with no control by the Legislature
2 whatsoever over what that fee would be next year or the year
3 after that, after that I think anybody who has been reasonable
4 about this fee in the public will no longer be reasonable,
5 and they are going to have a real problem. Thank you.

6 Mr. Chairman, thank you.

7 CHAIRMAN STUBAN: Thank you. I want to thank you
8 two for taking your time and testifying. And you know, I
9 think it was beneficial to the Committee to hear from both
10 of you, and I am sure we might be calling upon you at future
11 hearings to help with some input, and maybe work towards the
12 solution of the problem.

13 MR. SNYDER: Thank you, Representative Stuban, and
14 members of the Committee.

15 MR. YETTER: Thank you.

16 CHAIRMAN STUBAN: Thank you. Our next person to
17 testify is Tom Pugh, a member of the Medical Committee and
18 the Pennsylvania Association of Rehabilitation Facilities.
19 Whereupon,

20 THOMAS PUGH

21 having been called as a witness, testified as follows:

22 MR. PUGH: Gentlemen, I'm here today to represent
23 PARF, the Pennsylvania Association of Rehabilitation Facilities,
24 which is a professional organization of rehabilitation hospitals
25 and vocational training centers throughout the State of

1 Pennsylvania.

2 I have given you a position paper which represents
3 our official position on the CAT Fund. And in the interests
4 of brevity and the interests of time, I would like to summarize
5 as much as I possibly could, rather than reading the entire
6 position paper.

7 PARF understands there will be a significant number
8 of Pennsylvania citizens who will be injured, either this
9 year or the next year, through motor vehicle accidents. We
10 are talking about catastrophic injuries; that is to say, not
11 the normal fractures and contusions. We are talking about
12 spinal disfunction injuries or head trauma injuries, which
13 are long-term care health problems even in the State of
14 Pennsylvania.

15 By your prediction, and by the state's prediction,
16 there will be over 200 people. We seem to think that will be
17 accurate from what we have judged from our constituency,
18 from our own membership.

19 We have great concerns that there are some provisions
20 to provide adequate and good health care for those people
21 who are catastrophically injured in this state. Quite frankly,
22 our position is that we would have preferred the no-fault
23 law that the State of Pennsylvania had before that was indeed
24 passed in 1974.

25 The official position of my organization is that we

1 retain the Catastrophic Loss Fund until there can be more
2 input brought to the attention of the Legislature for changes
3 in that particular law. We think there are some significant
4 difficulties with that law; that we indeed think that that is
5 all that we have right now and we need to retain it, or else
6 there will be a number of people in the state that we feel
7 will be without medical services or adequate medical services.

8 We strongly recommend to this Committee, and to the
9 state, that the Catastrophic Loss Fund be retained as originally
10 designed in the Motor Vehicle Financial Responsibility Act.

11 And we additionally recommend that the Insurance
12 Department and the Governor's office make every effort to
13 fully explain the CAT Fund to the public at large.

14 I think that has been elaborated on a number of times
15 in testimony today.

16 And thirdly, we certainly share the same problem
17 with the billing process that you have, and recommend that
18 anything to correct these difficulties should certainly be
19 adjusted in the state.

20 That basically is our position. We feel these people
21 need catastrophic insurance. We are talking about people who
22 are going to incur health bills in excess of a hundred thousand
23 dollars. We -- indeed, there are a lot of cases in excess of
24 4 or \$500,000.

25 We believe that ethically we are bound to provide

1 services for those people; that they simply cannot fall through
2 the cracks of the health care system in Pennsylvania.

3 If I might digress a second, I had lunch last week
4 with Representative Wilson to discuss this same thing. He
5 had attended the PARF conference in Harrisburg. We had a
6 statewide conference, and he suggested that there are networks
7 within the State of Pennsylvania right now to provide for the
8 type of patients and I disagree with that position.

9 I do not think there are health care networks in
10 the State of Pennsylvania right now, other than the Catastrophic
11 Fund, to provide for those types of patients.

12 Gentlemen, to be very brief and very short, we simply
13 have come here today to say that we wholeheartedly support
14 the CAT Fund as it is held by the state now. And would hope
15 that the state will retain the CAT Fund until some other
16 conditions would be made in the law.

17 CHAIRMAN STUBAN: Representatives, are there any
18 questions? Representative Lloyd.

19 REPRESENTATIVE LLOYD: When was the last time that
20 your organization communicated with the administration about
21 the importance of having an intensive advertising campaign
22 to explain the CAT Fund?

23 MR. PUGH: The last time we did that was within the
24 last two months when we started to find the same problems
25 that, of course, you are having now with consumer complaints,

1 or consumer misunderstandings.

2 REPRESENTATIVE LLOYD: Was that by way of a meeting
3 or a letter?

4 MR. PUGH: That was a letter directed from the
5 Executive Director of PARF to the Insurance Commissioner.

6 REPRESENTATIVE LLOYD: Has your organization attempted
7 to set up a meeting personally with people from your organiza-
8 tion with the Insurance Commissioner?

9 MR. PUGH: We have done that. That has been done.

10 REPRESENTATIVE LLOYD: You have had that meeting?

11 MR. PUGH: I will say too that we have encouraged
12 the members of our particular association to work with the
13 newspapers in our area, through the media outlets, to see if
14 we can get some explanation.

15 I am from the Wilkes-Barre area, and indeed am employed
16 by a health care institution there. And the local newspapers
17 have been very receptive to publishing editorials about the
18 fund, to explain what the \$5.00 has been for.

19 We have attempted to be very accurate in trying to
20 promulgate that information.

21 REPRESENTATIVE LLOYD: Do you understand that the
22 people who -- well, people who read newspapers, a very small
23 percentage of those people read editorials?

24 MR. PUGH: That is probably true.

25 REPRESENTATIVE LLOYD: And if we really want to get

1 the message across, we have to have a television advertising
2 campaign similar to what was done with the PACE program.

3 MR. PUGH: I would agree, or I would anticipate, at
4 least, to have these full-page ads in newspapers.

5 REPRESENTATIVE LLOYD: I don't think people are going
6 to read a full page in the newspaper. That is too much to
7 read. That is the problem with the brochure.

8 Well, I think the brochure doesn't answer some of
9 the practical questions, though they do have some information.
10 I don't think people will take the time to read through that.

11 Something which they see on television, they are going
12 to pay attention to, they are going to grasp, and at least
13 going to have an understanding of what this program is all
14 about.

15 And I think -- it's just -- it's hard for me to
16 understand, in view of the heat that the Legislature has taken
17 over this, that we can have the buck-passing.

18 And I don't mean to include you, but the buck-passing
19 that we had today as to who is responsible for doing that. It
20 seems to me the only way we are going to get that kind of
21 intensive media campaign is if the organizations, such as
22 yours which want to have a CAT Fund, continue to press, seek
23 an opportunity to meet with the Governor and say, "Look,
24 we are going to lose this Fund, there is going to be a bill
25 on the Governor's desk to get rid of it. He can try to, but

1 there is going to be a bill on his desk to get rid of this
2 fund if we don't get the thing cleaned up."

3 And I don't know how to make it any clearer than
4 that. There is a bill, that is already out of this Committee;
5 the leadership has got it bottled up, and I think it's frus-
6 trating to a lot of fellows who are saying, "Look, they are
7 right and there ought to be a CAT Fund, but if they aren't
8 going to clean this up, I'm going to send them a message."

9 And the way the Legislature may make them sit up and
10 take notice is to move a bill. And you start to move a bill,
11 all of a sudden they will do all kinds of things to avoid
12 having that pass.

13 But I think your organization, if you want to save
14 the CAT Fund, your organization has a big role to play in
15 making sure that this public information program gets started;
16 not two months from now, but at the very most, a week or two
17 weeks from now. Thank you.

18 MR. PUGH: As a crisis intervention at this time,
19 and also the time frame is very, very narrow on it; we agree.

20 REPRESENTATIVE LLOYD: Thank you.

21 CHAIRMAN STUBAN: Any other questions? Tom, I have
22 to agree with Representative Lloyd here. I think we in the
23 General Assembly all agree that there is some need for a
24 Catastrophic Fund, and how we should take care of those people
25 that are out there.

1 But you know, through the frustration and the commotion
2 that we have and the problems we are having with the program,
3 I am afraid that we are liable to go back to the House and,
4 as Representative Lloyd reiterated here earlier here today,
5 that every darn bill that is going to be up is an opportunity
6 to add an amendment to get rid of the fund.

7 I'm sure that that amendment is going to be on the
8 floor, and it's going to put a lot of us up against the wall
9 as to making that decision as to what should be done.

10 And, you know, we know it's got to be addressed, and
11 I believe we tried to address it when the insurance bill went
12 through.

13 MR. PUGH: We share your assessment; that is a very
14 accurate assessment. And I want to reiterate that we do
15 have some significant problems with this bill as it is. But
16 PARF's stand is that this is the best we have got right now.
17 We don't want to lose this until at least there is something
18 to replace that. That is our concern.

19 CHAIRMAN STUBAN: I think it would be beneficial,
20 in your interest, to make some moves and to convince somebody
21 that you know it's got to be addressed.

22 MR. PUGH: We certainly understand that.

23 CHAIRMAN STUBAN: Thank you for your testimony here
24 today. We appreciate it.

25 MR. PUGH: Thank you.

1 CHAIRMAN STUBAN: When Amos -- there was a piece in
2 the paper, and somebody asked if local people who were con-
3 stituents could participate, and I guess we didn't get much
4 response. We do have one person here that put their name on
5 the list.

6 I had another person call me last evening, and he
7 said he would like to testify but we had the meeting set until
8 four o'clock, and I said if he had any input to put into here,
9 I would call his employer immediately and I would get him
10 relieved from his job long enough to testify for us.

11 And he made a big issue about that, and I guess he
12 didn't -- really wasn't serious about testifying. He was
13 serious about just giving somebody hell, and I happened to be
14 on the end of the telephone so I accepted it.

15 But Lee Isley has signed the list here and Lee comes
16 from Muncy Hills, Montour County. And if you would like to
17 have your wife with you, if she wants to sit down up front
18 here.

19 Whereupon,

20 LEE ISLEY
21 having been called as a witness, testified as follows:

22 MR. ISLEY: She is the smart one of the family.

23 CHAIRMAN STUBAN: I know. That is the way with all
24 of us. We need that support, and I'm not going to tell you
25 my wife is not the boss in my house, because I will be lying

1 about a lot of other things.

2 MRS. ISLEY: She thinks she is.

3 CHAIRMAN STUBAN: We appreciate your coming and taking
4 of your time and sitting here all afternoon to be given the
5 opportunity to testify.

6 MR. ISLEY: Thank you. I appreciate being here. I
7 would like to first say that I am not a public speaker; I
8 am a farmer. And I know some of the others sound so beautiful
9 when they talk. I think when I got here, I guess they are
10 going to think I am from the hills - - -

11 CHAIRMAN STUBAN: You are doing a good job.

12 MR. ISLEY: But let me say, I think going to testify
13 is tough, because I notice the room has emptied out more.
14 And if I forgot to use my Dial, I don't know which it was,
15 but one or the other.

16 My dilemma is that every time we get something like
17 this, it never stays the same. We were told when no-fault
18 came along, that was going to cheapen insurance. Now, this
19 is supposed to cheapen insurance.

20 My rates are still going up. I was just talking to
21 the fellow there sending Nationwide around. I got to do
22 something.

23 You guys and the insurance companies and the Repre-
24 sentatives and the people in Harrisburg are literally putting
25 the small businessman out of business today. We can't just

1 continue to pay all the bills. Somewhere you got -- you know,
2 I hear the Governor get on TV for the aging, lotteries for
3 the aging and so forth.

4 Where does the young man that is just starting out
5 in life, or myself, the middle-aged working man, where does
6 he get the break today? He pays and pays.

7 I could tell you a story that would make you all cry.
8 You don't have time and I'm not going to start now. It never
9 ends for him.

10 Now, I have got a problem here because I have eight
11 registered vehicles. I was a farmer in Bucks County for 32
12 years. I was forced out with taxes. They came up my creek
13 with a sewer line and dried up my irrigation pond.

14 I called the DER; that was hopeless. I was forced
15 out down there. I came up here for some relief, figuring if
16 I get in the hills, nobody is going to bother me. I guess
17 you can't run from it.

18 I really think this is serious. I work six and seven
19 days a week. I work ten, twelve hours a day myself trying
20 to put it all together and, fellows, I'm going backwards.

21 And I work -- I tell you, I would make most of you
22 tired just following me around. I am 51 years of age. I
23 got arthritis in my back and arthritis in my hips.

24 I have eight vehicles; I can only drive one at a time.
25 Yet, I'm going to pay eight times what my uncle is paying,

1 who is a retiree, okay.

2 I heard the other gentleman sit here and say fair
3 share. Where is my fair share? I'm paying -- I don't get
4 eight times the insurance. You couldn't reduce my premium --
5 or I don't start at 20,000, I only start at a hundred.

6 Truthfully, I don't want it. I really don't. I
7 would rather buy my own insurance.

8 The same as I never wanted social security that I
9 was forced under. All these people are hollering now they
10 are not getting enough money where when they paid at the
11 time it was three and four and two percent. I'm paying
12 14 plus percent.

13 When is it going to end for the producer? You know,
14 it's getting to the point where you are going to eliminate
15 producers, and there will be nobody else to keep the other
16 people after a while.

17 I don't know. Why didn't they put it on -- if they
18 thought they had to have it, why didn't they go on the driver's
19 license? Why on the vehicles?

20 This I cannot understand. It would have made -- if
21 you thought you needed it, at least put it on the driver's
22 license and everybody would pay. Not maybe a man who has a
23 fleet of 10 or 15 trucks and only uses half of them.

24 I pay \$803 for some of my licenses on my trucks.
25 I don't put a combined mileage on all my vehicles of 20,000

1 miles a year.

2 The pickup, which is also my car, gets the most usage.
3 Some of the big trucks, I move a vehicle on site and then it
4 goes home. Some of the trucks go on site and don't leave for
5 months on end; never see a road.

6 I never argued. I pay the same fee for that tag that
7 a man that runs out to the quarry every day, or the man that
8 runs up over Route 80 here every day, and is putting 20,000
9 miles a month on one vehicle.

10 I have never but, fellows, there comes a time when
11 it has to end. Now, PP&L says it only needs 350 million,
12 it only costs every participant, or the average person who
13 uses PP&L, it's \$8.87, and it's only \$5.00 a vehicle, but
14 put this all together over a period -- I can't raise my price.

15 I get no cost of living raise. I have no pension.
16 I have nothing like -- I have to work harder or longer. If
17 I raise my prices, my competition puts me right out of business.

18 Farming is a tough business. It's not easy today.
19 It's got to end. I will answer any questions if I can. But
20 I still don't understand why it didn't go on the driver's
21 license and not the vehicles.

22 CHAIRMAN STUBAN: Well, Lee, I think when you started,
23 you expressed the fact that no-fault was going out of reach
24 and that was getting costly. And I believe that is the reason.
25 You know, in a few times that I have been down there, I have

1 heard my constituency say about "No-fault is just eating me up,
2 and the insurance rate is going high."

3 And we sat down here and tried to reform the insurance
4 laws, and I think we were all under the opinion, when we
5 passed that new law, that there would be -- at least we would
6 be stabilizing insurance or even lowering them some; that
7 there wouldn't be any increase.

8 I feel that we were acting, in the Legislature, in
9 the best interests. And when a compromise comes up, I guess
10 the Catastrophic Fund, we thought that was the solution to
11 the problem. But it seems that we have now again created
12 another monster like no-fault was.

13 And really we are concerned about your problems. And
14 I'm sure that, you know, we would like to address them, and
15 I understand your frustration.

16 I started, and my wife, with a backhoe and a bulldozer,
17 and spent my time in that racket. It's a tough road to hoe,
18 and I know how tough it is. And it's a problem and we would
19 like to address that. We would like to solve your problem.

20 We thank you for taking your time to come here to
21 talk to us today and express - - -

22 MR. ISLEY: Thank you for the time, and I sure hope
23 you really will reach - - -

24 CHAIRMAN STUBAN: Representative Lloyd has a question.

25 REPRESENTATIVE LLOYD: He has raised a very good point,

1 which I had some constituents had mentioned it to me, and
2 I frankly had forgotten, and if we still have some of the
3 insurance people here, maybe they could explain the rationale,
4 as best they could, can define why you should have to pay on
5 every vehicle rather than the driver's license.

6 MR. SNYDER: The answer is that I can't explain the
7 rationale. I will try to find out what the rationale is.
8 I suspect that -- what I would think is that there are far
9 fewer licenses issued than there are registrations, and so
10 each licensed driver would end up having to pay more to build
11 up the same pot of 30 million.

12 REPRESENTATIVE LLOYD: There are more drivers' licenses
13 than there are vehicles.

14 CHAIRMAN STUBAN: I think what would happen is we get
15 all these big trucking interests, and everybody else, and we
16 wouldn't be covering a lot of vehicles out there that are
17 out on the road.

18 Really, having a driver's license wouldn't say that
19 you were going to go out there and cause a catastrophic
20 accident. I believe that the vehicle - - -

21 REPRESENTATIVE LLOYD: But you can only drive one
22 vehicle at a time.

23 CHAIRMAN STUBAN: It would be more probable for that
24 vehicle to create the problem than the driver's license.

25 MR. SNYDER: The whole thing that -- the insurance

1 theory in this state has long been that you insure the vehicle
2 and not the individual. Our insurance is based upon the
3 vehicle because of the vehicle costs. The vehicle costs
4 constitute the exposure here. That has been the tradition
5 here.

6 MR. LANDIS: But you are actually insuring the
7 person's life, not the vehicle, because the guy is handling
8 the vehicle. If he commits the violation, he gets surcharged.

9 MR. SNYDER: Yes, that is part of it too.

10 MR. ISLEY: A state trooper doesn't issue a ticket
11 to the vehicle. He issues it to the operator. And the
12 vehicle cannot drive down the road by itself and cause an
13 accident without an operator in.

14 MRS. ISLEY: And the CAT Fund insures the people,
15 it doesn't insure the vehicle.

16 CHAIRMAN STUBAN: That might be a point that we could
17 look at it and see how many drivers' licenses we do have
18 issued in comparison to how many vehicle registrations there
19 are.

20 REPRESENTATIVE LLOYD: We are going to make a
21 different set of people unhappy if we are going to do that.

22 MR. CASPER: The guy with four teenaged boys or girls
23 and have two cars.

24 MRS. ISLEY: Except four teenagers are more likely
25 to cause an accident.

1 MR. CASPER: That's right, you are right. Especially
2 in a farming situation or whatever where you are driving one
3 vehicle, your wife is driving another or whatever, and there
4 are five sitting. You are absolutely right.

5 And frankly, we had experts in from the Department of
6 Insurance, and frankly, if the other members would agree,
7 that you have probably given us, shed more light on this
8 problem than some of the others.

9 MR. ISLEY: Gentlemen, I hope I haven't created
10 any problems, but I sure wish you would look into it because
11 I'm quite disappointed. Today I sent off a registration for
12 one of the vehicles that are in Bucks that don't travel 500
13 miles a year on a road, delivers hay and straw and wood down
14 there when we take a load down.

15 PennDOT sent it back to me, but I didn't get my
16 check back. Now, I'll tell you right now, I want my check
17 back because I am going out of business.

18 If this thing is not resolved, you are going to lose
19 over \$2,500, and I am going to get on the relief roll. I am
20 51 years old. I have arthritis; I am willing to keep on
21 going but not under these circumstances. I have had it.

22 And I don't -- I will say this to you. This isn't --
23 no, never mind.

24 CHAIRMAN STUBAN: Lee, if you notice on your regis-
25 tration, there is a VIN number and a process number that is

1 stamped on the back of that card when they send it back to you.

2 MR. ISLEY: I have it here, the notice.

3 CHAIRMAN STUBAN: There is a number stamped on there
4 if you sent it.

5 MR. ISLEY: It makes it a valid license.

6 CHAIRMAN STUBAN: If you sent your \$5.00 for the
7 Catastrophic Fund in, you don't have to get the check back.

8 MR. ISLEY: I will send the one \$5.00 for one vehicle,
9 but that is all I'm going to pay.

10 CHAIRMAN STUBAN: If this is a situation that you
11 are not going to renew that, I am sure that you can get a
12 refund on that process.

13 MR. ISLEY: In other words, the state would rather
14 lose \$2,500 in license fees and get one - - -

15 CHAIRMAN STUBAN: No, I don't think we would like to
16 lose the 2,500 in license fees, and we don't want to see you
17 go out of business. And I'm sure that, you know, a lot of
18 my constituency is farmers, and I know that they are all having
19 a tough time.

20 But I'm sure that you are the kind of people that are
21 all going to improvise, and they are all going to see how
22 they can make it. And, you know, things will get better and
23 - - -

24 MR. ISLEY: But, Ted, believe me, I'm tired of working
25 seven days a week. I have done it all my life. I have had

1 two vacations in 35 years: four days in Bermuda because my
2 wife said it was for our 30th wedding anniversary, and one
3 other time we went to Florida a week because my accountant
4 lives down there.

5 I am up to here. All I would like to do now is provide
6 for myself in my old age so I don't have to depend on sub-
7 sistence relief such as social security. Because when I get
8 65, social security isn't even going to be around, believe me.

9 CHAIRMAN STUBAN: Well, you are the kind of man and
10 wife that have made our country. And my wife just walked in
11 here now, and we do it; we try and we work hard.

12 MR. ISLEY: I know, but you really got to get down
13 to the grass roots and listen to the middle class who are
14 hollering, "Fellows, enough, okay." You get down and start
15 to listen, all of you fellows. Not just you guys; the rest
16 of Washington, all of them are not listening.

17 CHAIRMAN STUBAN: We are trying to listen and that
18 is the reason why we are here in Bloomsburg today.

19 MR. ISLEY: Thank you for your time.

20 CHAIRMAN STUBAN: Thank you for your time. Fellows,
21 I want to thank you all for coming, and I want to thank
22 Bloomsburg College.

23 John, I want to say that Bloomsburg has been a
24 wonderful host again, and I can highly recommend you again
25 for another meeting. We have been here on previous meetings -

1 MR. CASPER: That is why we come back. You spoiled
2 us the first time.

3 MR. WALKER: Come back again.

4 CHAIRMAN STUBAN: We will be back, and when you get
5 to Harrisburg, look us up.

6 (Whereupon, at 5:15 p.m., the hearing was adjourned.)

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I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me, and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

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