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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
INSURANCE COMMITTEE
and
TRANSPORTATION COMMITTEE

MAIN CAPITOL
ROOM 140
HARRISBURG, PENNSYLVANIA

JOINT PUBLIC HEARING
HB 1258 and SB 928
MINIMUM LIABILITY VEHICLE INSURANCE COVERAGE

MONDAY, APRIL 11, 2016
11:02 A.M.

BEFORE:

- HONORABLE JOHN TAYLOR, MAJORITY CHAIRMAN,
TRANSPORTATION
- HONORABLE LYNDA SCHLEGEL CULVER
- HONORABLE JULIE HARHART
- HONORABLE KATE HARPER
- HONORABLE DOYLE HEFFLEY
- HONORABLE TIM HENNESSEY
- HONORABLE MARK KELLER
- HONORABLE JEFF PYLE
- HONORABLE MARGUERITE QUINN
- HONORABLE JUSTIN SIMMONS
- HONORABLE WILLIAM KELLER, MINORITY CHAIRMAN,
TRANSPORTATION

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SUBMITTED WRITTEN TESTIMONY

* * *

(See submitted written testimony and handouts
online.)

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P R O C E E D I N G S

TRANSPORTATION MAJORITY CHAIRMAN

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3 TAYLOR: On behalf of Chairman Pickett and
4 Chairman Keller, Chairman DeLuca and myself, I
5 welcome everybody and call this joint meeting
6 of the House Transportation Committee and
7 House Insurance Committee to order. It's not
8 everyday we have a joint meeting. So, we'll
9 try to get through this. We have a full
10 agenda, but we have a few hours to do it.

11 And before I call on my counterparts
12 for comments, I'd like to start out, to my far
13 left, and have the members of the committees
14 introduce themselves.

15 Justin.

REPRESENTATIVE SIMMONS:

16 Representative Justin Simmons.

17 REPRESENTATIVE SONNEY: Curt Sonney,

18 4th District.

19 REPRESENTATIVE HARPER: Kate Harper,

20 Montgomery County.

21 REPRESENTATIVE KELLER: Mark Keller,

22 Perry and Cumberland County.

23 INSURANCE MINORITY CHAIRMAN DELUCA:

24 Tony DeLuca, Allegheny County.
25

1 INSURANCE MAJORITY CHAIRWOMAN

2 PICKETT: REPRESENTATIVE PICKETT:

3 Representative Tina Pickett, Bradford,

4 Sullivan, and Susquehanna counties.

5 REPRESENTATIVE: William Keller,

6 Philadelphia County.

7 REPRESENTATIVE PASHINSKI:

8 Representative Eddie Day Pashinski, Luzerne

9 County.

10 REPRESENTATIVE ROAE: Representative

11 Brad Roae, Crawford County and Erie County.

12 REPRESENTATIVE DRISCOLL:

13 Representative Mike Driscoll, northeast

14 Philadelphia.

15 REPRESENTATIVE: Tom Murt, Montgomery

16 County and Philadelphia County.

17 REPRESENTATIVE COSTA: Dom Costa,

18 Allegheny County.

19 REPRESENTATIVE BRIGGS: Tim Briggs,

20 Montgomery County.

21 TRANSPORTATION MAJORITY CHAIRMAN

22 TAYLOR: Thank you. And I'm sure we'll be

23 joined by a few more members.

24 I said to a few members, while this

25 is a very important issue, it may be the least

1 controversial thing we'll do all day or this
2 week. So, I'm actually looking forward to
3 this one. I don't know about other things
4 we're going to be doing this week.

5 But in terms of insurance and
6 insurance limits, as a Philadelphian, and
7 Representative Keller and I and Representative
8 Driscoll certainly understand, this was one of
9 the more key issues that faced us all in the
10 '90s and probably early 2000s. A day didn't
11 go by to any one of our offices that we
12 weren't really complained to about the
13 insurance, auto insurance situation, in
14 Philadelphia and the surrounding areas, not
15 only the cost but the lack of insurance and
16 many people not being insured.

17 A lot has happened since then. I
18 think the auto insurance dilemma, at least for
19 Philadelphians, has been somewhat mitigated,
20 but, you know, we have to revisit everything
21 in a timely period, and we're going to be
22 doing that today, to talk about the insurance
23 limits and whether or not they should be
24 increased.

25 With that, Chairman Pickett.

1 INSURANCE MAJORITY CHAIRWOMAN

2 PICKETT: Thank you.

3 I thank everyone who has taken the
4 time to be with us today and to testify and to
5 observe the hearing. And I did not get to
6 live through that time period as a
7 representative, so I welcome the chance to go
8 back through the history and to realize that
9 it's very important to retain a good balance
10 with a very big subject across our state that
11 literally affects most of everybody in the
12 state.

13 So, I look forward to the different
14 viewpoints that we'll hear today. And thank
15 you very much.

16 TRANSPORTATION MAJORITY CHAIRMAN

17 TAYLOR: Chairman DeLuca.

18 INSURANCE MINORITY CHAIRMAN DELUCA:

19 Again, I want to thank you for having this
20 hearing today, joint hearing. I think it's a
21 very important meeting. Things change in
22 life, and certainly when some of this
23 information was first initiated, approximately
24 about thirty-five years ago, things have
25 changed. So, it's good to -- to get some

1 information pertaining to updating some of our
2 issues here in Pennsylvania.

3 Thank you.

4 TRANSPORTATION MAJORITY CHAIRMAN

5 TAYLOR: Chairman Bill Keller.

6 TRANSPORTATION MINORITY CHAIRMAN

7 KELLER: Thank you, Mr. Chairman.

8 As you said, car insurance probably
9 was the number one complaint we had. Now it's
10 back to jobs, where I guess it's not a good
11 thing, but -- but that makes more sense. So,
12 this is important, and thank you for having
13 the hearing. I don't want to take up much
14 time. I know we are pressed. So, go on and
15 hear the testimony.

16 Thank you, Mr. Chairman.

17 TRANSPORTATION MAJORITY CHAIRMAN

18 TAYLOR: Thank you, Mr. Chairman.

19 So, as you know, on the agenda today
20 is House Bill 1258, by Representative Ellis,
21 and Senate Bill 928, by Senator White.

22 We appreciate the staffs' help on both
23 committees to assemble those who are ready to
24 testify today, and I think we'll get right on
25 it.

1 I think if the members bear with us
2 to determine our progress, whether or not and
3 when questions will be asked, we'll try to go
4 in the normal routine we usually go, assuming
5 we're moving along.

6 So, with that, we're going to start
7 off with our Pennsylvania Insurance
8 Department, Seth Mendelsohn, Dave Buono, and
9 Mike McKenney. I see that they're all
10 assembled.

11 Gentlemen, thank you very much for
12 being here, and whoever wants to start, please
13 do.

14 EXECUTIVE DEPUTY COMMISSIONER

15 MENDELSON: Sure. Good morning and thank you
16 for having us.

17 Chairman and Honorable members of the
18 House Insurance and House Transportation
19 Committee, we appreciate this opportunity to
20 speak with you today to discuss the issue of
21 raising Pennsylvania's required automobile
22 insurance limits.

23 My name is Seth Mendelsohn. I serve
24 as executive deputy commissioner. On my right
25 is Dave Buono, our consumer liaison. And on

1 my left is Mike McKenney, our actuarial
2 supervisor.

3 We've submitted written testimony to
4 the committee. I wanted to briefly summarize
5 that testimony and offer a few additional
6 thoughts.

7 As you know, our department oversees
8 the insurance industry, and let me address
9 right away the comment. We have a very
10 competitive automobile insurance industry here
11 in Pennsylvania. We have over two hundred
12 companies today that are offering automobile
13 insurance to Pennsylvania's consumers.
14 Because we know that negligently driving a
15 vehicle can result in property damage and
16 possibly cause injury to others or even death,
17 the legislature has mandated that drivers have
18 financial responsibility, i.e. insurance
19 coverage, and that coverage contains certain
20 protections both for the driver, the first
21 party, and for the persons or property that
22 they may injury or damage.

23 As to the liability limits,
24 Pennsylvania's current automobile limits for
25 mandatory coverage are 15/30/5. The 15

1 indicates that a consumer's auto insurance
2 policy must have a minimum of 15,000 dollars
3 of coverage for bodily injury. The 30 means
4 the minimum coverage amount of 30,000 dollars
5 bodily injury per accident. And the 5
6 indicates a minimum coverage amount of 5,000
7 dollars for property.

8 Now, I use the word "current," but
9 these specific coverage amounts have been in
10 effect since adoption of Act 176 of 1974. In
11 fact, the 5,000 dollars property damage amount
12 has been in effect since the late 1950s. In
13 forty-two years, the commonwealth has not
14 altered these amounts. And make no mistake,
15 Pennsylvania's limits have not been raised
16 and, unfortunately, now these limits are among
17 the lowest of any state in the United States.

18 We, as the department, support the
19 idea of increasing the minimum limits, though
20 we leave it to the legislature to determine
21 what those limits should be.

22 Now, there are three primary reasons
23 why we support the idea of raising the minimum
24 limits. First, Pennsylvania's limits, as
25 noted earlier, have fallen out of step with

1 the higher limits imposed by other states.

2 Second, these lower limits no longer
3 provide the same amount of protection for the
4 insured driver. We all know that, generally,
5 prices have gone up over the past five or ten
6 years and certainly over the past forty years.
7 And we suggested it seem imprudent to keep a
8 mandatory minimum insurance limit that was
9 established forty years ago.

10 And third, we know that we are
11 making -- or the legislature's making policy
12 for many years to come. Few would have
13 predicted that the rates set in the 1970s
14 would continue to be the rates that
15 Pennsylvania has today.

16 Now, in making this recommendation to
17 the committee, you should be aware that, in
18 2011, the Department presented testimony to
19 the Senate Banking and Insurance Committee
20 that, on the same basic set of facts, reached
21 an opposite conclusion. In 2011, the
22 Department, under a different commissioner and
23 different governor and different governor
24 administration, cited, among other reasons,
25 the continued sluggish climate following the

1 great recession as a reason not to increase
2 the limits at that time.

3 In addition, it suggested that some
4 consumers, quote, may be tempted to illegally
5 purchase from states such as Delaware or Ohio
6 in order to avoid the higher premiums.

7 In coming to our current decision
8 suggesting that the rates should be increased,
9 we suggest that circumstances have changed.
10 Fortunately, we are no longer just coming off
11 the great recession. And it's different. The
12 facts have changed.

13 Ohio has now increased its minimums
14 since our department's testimony in 2011. In
15 2013, in fact, Ohio raised its minimum limits
16 to 25,000 dollars per person, 50,000 dollars
17 per accident, and 25,000 dollars for property
18 damage.

19 Let me briefly close by addressing
20 another issue. One of the bills being
21 discussed here today contains troubling
22 language strongly opposed by the Insurance
23 Department and the Wolf administration.
24 Senate Bill 928, printer's no. 1140, contains
25 a provision that would allow any revised forms

1 and rates filed by insurers with the
2 department to be, quote, deemed approved,
3 unquote, upon filing.

4 Now, this means -- "deemed approved"
5 means the Insurance Department would not have
6 the opportunity to review these complicated
7 filings before the changes would go into
8 effect for Pennsylvania consumers. If
9 enacted, this language would take away one of
10 our most effective tools to fulfill our
11 consumer protection role, and that is the
12 preapproval of the rates and forms before they
13 are given to consumers. And our review
14 process makes sure that these filings contain
15 all of the protections that have been
16 guaranteed by Pennsylvania law, and that the
17 rates requested by the insurers are not
18 inadequate, excessive, or unfairly
19 discriminatory.

20 I suggest to you that our department
21 has an outstanding record of reviewing filings
22 in a timely manner. We understand the need
23 for insurers to have speed to market and work
24 with them to make that happen. Our department
25 reviews thousands of filings every day -- or

1 every year, and we complete our review for
2 most filings within four to five days.

3 What we've seen works better is a
4 system that requires the preapproval of rates
5 and forms before those rates and forms may be
6 used in the marketplace. This review process
7 allows us to have a conversation with the
8 companies who may wish to amend their filing
9 when we've identified potential compliance or
10 other issues.

11 By way of a brief example,
12 legislation was recently passed that included
13 a similar "deemed approval" provision. In
14 that instant, the law change was only a form
15 change, and the final language for the
16 provision ended up providing our department
17 with an abridged, ten-day review period to
18 evaluate form filings made as a result of the
19 new law. And what did we find? To date,
20 we've received twenty filings pursuant to the
21 new law, 95 percent of those filings, or
22 nineteen out of twenty, did not comply with
23 some portion of Pennsylvania law that had been
24 approved by the legislature.

25 Our core mission is to protect the

1 interests of insurance consumers. And it's a
2 charge we take seriously. Because of that, we
3 respectfully request that any legislation
4 addressing auto minimum limits, that language
5 regarding deemed filings being approved upon
6 receipt not be included.

7 As we mentioned at the outset, we are
8 willing to participate in any follow-up
9 discussions with you or your staffs regarding
10 this important issue about raising automobile
11 minimum limits, and we thank you for your
12 consideration. And we are happy to answer
13 your questions.

14 Thank you.

15 TRANSPORTATION MAJORITY CHAIRMAN

16 TAYLOR: Dave or Mike, any comments?

17 MR. BUONO: No, sir.

18 MR. MCKENNEY: No, sir.

19 TRANSPORTATION MAJORITY CHAIRMAN

20 TAYLOR: Could you just, for the entire
21 committee, the language that you were
22 referring to that you found objectionable,
23 could you just point that out as to where
24 exactly that is?

25 MR. MCKENNEY: In Senate Bill 928,

1 lines -- I guess it starts at about line 28,
2 it says: Any revised forms or rates filed by
3 an insurer with the Insurance Department as a
4 result of the amendment of 75 PA CS Section
5 1702 shall be deemed approved by the
6 department upon filing.

7 EXECUTIVE DEPUTY COMMISSIONER

8 MENDELSON: That was on page two.

9 TRANSPORTATION MAJORITY CHAIRMAN

10 TAYLOR: That's an entirely new section to the
11 whole code, is that your understanding?

12 MR. MCKENNEY: That is correct.

13 TRANSPORTATION MAJORITY CHAIRMAN

14 TAYLOR: Okay. We'll ask this to the industry
15 as well, but you mentioned, for example, the
16 increase in the limits in Ohio. Do you have a
17 sense of what that did to rates?

18 MR. MENDELSON: Chairman, I can tell
19 you, just looking at some newspaper articles,
20 that rates did go up. I think I saw a figure
21 there of about 200 dollars on premiums, could
22 be give or take. We have no firsthand
23 knowledge of that.

24 TRANSPORTATION MAJORITY CHAIRMAN

25 TAYLOR: Okay. I'm sure others will.

1 Chairman Pickett -- before I turn to
2 the chairman, I just want to note, we were
3 joined by Representative Barbin. And anybody
4 else who came in after introductions?

5 Why don't -- because I have not had
6 the luxury of actually seeing any of you,
7 Gary, could you start with just introducing
8 yourself, please? I'm not asking for a
9 question yet, Gary. I just want you to
10 introduce yourself.

11 REPRESENTATIVE DAY: Thank you for
12 the floor, Mr. Chairman.

13 Gary Day, Lehigh and Berks counties.

14 TRANSPORTATION MAJORITY CHAIRMAN

15 TAYLOR: We'll turn to you in a second.

16 Warren, is that -- okay.

17 REPRESENTATIVE KAMPF: Warren Kampf,
18 Chester, Montgomery counties.

19 TRANSPORTATION MAJORITY CHAIRMAN

20 TAYLOR: Todd.

21 REPRESENTATIVE REGAN: Mike Regan,
22 York and Cumberland County.

23 REPRESENTATIVE STEPHENS: Todd
24 Stephens, Montgomery County.

25 REPRESENTATIVE DAVIS: Tina Davis,

1 Bucks County.

2 REPRESENTATIVE HEFFLEY: Doyle
3 Heffley, Carbon County, 122nd District.

4 REPRESENTATIVE HENNESSEY: Tim
5 Hennessey, Chester County.

6 REPRESENTATIVE EVANKOVICH: Eli
7 Evankovich, representing the best parts of
8 Westmoreland and Allegheny.

9 REPRESENTATIVE BARBIN: Bryan Barbin,
10 representing Cambria and Somerset County.

11 TRANSPORTATION MAJORITY CHAIRMAN

12 TAYLOR: I think we have -- chairman -- one
13 more?

14 REPRESENTATIVE CULVER: Linda Culver,
15 Northumberland and Snyder counties.

16 INSURANCE MAJORITY CHAIRWOMAN

17 PICKETT: Thank you very much.

18 Mr. Mendelsohn, you mentioned the
19 statements that you made four years ago, and
20 within that statement, it does say that one of
21 your major concerns was the average cost of
22 bodily injury and property damage, that they
23 were significantly below the current minimum
24 levels at that time. Do you know what the
25 average costs are today for bodily injury and

1 for property damage?

2 EXECUTIVE DEPUTY COMMISSIONER

3 MENDELSON: We have run some statistics and
4 believe those figures are close to what they
5 were. There has been a change in terms of
6 post 1990, with full tort, limited tort, but
7 in terms of what the numbers have been, are
8 roughly about the same with what they were in
9 2011, give or take a few thousand dollars or
10 so.

11 INSURANCE MAJORITY CHAIRWOMAN

12 PICKETT: I would like to request that the
13 department would do a data call survey,
14 please, on the auto insurer in the state and
15 gain additional information on the impact of
16 House Bill 1258 and Senate bill 928. Would
17 like to request that, please.

18 EXECUTIVE DEPUTY COMMISSIONER

19 MENDELSON: And, I'm sorry, on the costs or
20 on --

21 INSURANCE MAJORITY CHAIRWOMAN

22 PICKETT: Average costs of bodily injury and
23 property damage.

24 EXECUTIVE DEPUTY COMMISSIONER

25 MENDELSON: Okay. Thank you.

1 INSURANCE MAJORITY CHAIRWOMAN

2 PICKETT: Thank you.

3 Thank you, Mr. Chairman.

4 TRANSPORTATION MAJORITY CHAIRMAN

5 TAYLOR: Representative Day, Gary.

6 REPRESENTATIVE DAY: Thank you.

7 I just wanted to understand. You
8 said that you're not giving us advice on where
9 it should be, and we really need to have a lot
10 of people weigh in on that, and I'd look to
11 your office to balance that line between, you
12 know, if my wife and I were in an accident
13 where we totaled our vehicle, it was an
14 underinsured motorist. It caused all of
15 the -- you know, the resulting costs to come
16 back on my policy, which raises mine and
17 everyone else's. So, raising it sounds like a
18 good idea to help share that burden with
19 people that are, right now, not sharing that
20 burden. However, many people in the insurance
21 industry say when you raise that, people flee,
22 and then do not have any insurance whatsoever.
23 So, that's the line for me. This is
24 a really tough issue. That's why we have two
25 committees together here probably, to talk

1 about it. And I need as much information from
2 your office on how do we judge that and where
3 should that be.

4 So, I'd like to see you try to take a
5 position or at least explain, if it was
6 higher, the reasons for that. And if it would
7 be a lower limit, maybe a range, the reasons
8 for that as well.

9 So, it's more of a statement. If
10 you'd like to address it as a question, I
11 would appreciate that.

12 EXECUTIVE DEPUTY COMMISSIONER

13 MENDELSON: Thank you, Representative. We
14 can certainly provide the committee with
15 information in the marketplace with what other
16 states have, and we'd be happy to do that and
17 to work with you on that.

18 REPRESENTATIVE DAY: Okay. Thank you
19 very much.

20 Thank you, Mr. Chairman.

21 TRANSPORTATION MAJORITY CHAIRMAN

22 TAYLOR: Looks like, gentlemen, you have some
23 homework as a result of your visit here.

24 Chairman Keller.

25 TRANSPORTATION MINORITY CHAIRMAN

1 KELLER: Thank you, Mr. Chairman.

2 On those same lines, you said that
3 Ohio has increased their limits. And you
4 weren't sure, but you thought it was an
5 increase of 200 dollars. I think you're going
6 to have to go find out, in the states that
7 increased their limits, how much the premiums
8 increased. Because, as Chairman Taylor talked
9 about, when we had the problems in Philly, it
10 wasn't because people were underinsured. It
11 was because they weren't insured at all, that
12 they either couldn't find a carrier that would
13 accept them, or it was just too expensive.

14 And I think, at one point, we had as
15 many uninsured drivers as we had insured
16 drivers. And that is -- that's what we are
17 not trying to get to. And we were there once,
18 so we have to make sure we don't go there
19 again.

20 And you'll be able to check and
21 provide the Chairmen with information of the
22 increases and the rates?

23 MR. MENDELSON: Yes. We can contact
24 Ohio and get that information.

25 TRANSPORTATION MINORITY CHAIRMAN

1 KELLER: Or any other states that --

2 EXECUTIVE DEPUTY COMMISSIONER

3 MENDELSON: I will tell you, Chairman, you
4 know, we were in constant contact with the
5 industry. We've asked the question of, you
6 know, if you went to a more average, if we got
7 to -- and we hear the number 25/50 a lot, you
8 know 25,000 per person, 50,000 per accident.
9 We've seen that number. We have not gotten
10 from the industry what the premium effect
11 would be. They've indicated there would be a
12 premium effect, but we have not gotten any
13 sense of what kind of increase in rates would
14 result from that, but we can certainly get the
15 information from Ohio and --

16 TRANSPORTATION MINORITY CHAIRMAN

17 KELLER: That's the most important thing. We
18 can't go back to where we were. I mean, to
19 have as many uninsured drivers as insured
20 drivers, and that just constantly, you know,
21 kept people out of the market, which is not
22 what you want. You want as many people in the
23 market as you can get.

24 And I think that will be one problem
25 that you'll have to solve, because we can't go

1 back to the way we were in Philadelphia.

2 Thank you.

3 Thank you, Mr. Chairman.

4 TRANSPORTATION MAJORITY CHAIRMAN

5 TAYLOR: Chairman DeLuca.

6 INSURANCE MINORITY CHAIRMAN DELUCA:

7 Thank you, Mr. Chairman.

8 As I look over some of your testimony
9 in 2011, one of your main concerns was about
10 the fact that it would increase the uninsured
11 rate if we raised it. What has changed in the
12 four years or five years to not make you
13 believe that the uninsured rate will change?

14 MR. MENDELSON: Chairman, thank you.
15 You know, it's an interesting balance, because
16 you have two coverages there that consumers
17 may choose. You have uninsured and you have
18 underinsured. Now, if you were to raise the
19 minimum limits, I may need less underinsured
20 coverage, because the driver who negligently
21 hits me, now that person would have higher
22 coverage.

23 Now, at the same time, it has been
24 argued that if you -- any time you increase a
25 rate, you may have those who, unfortunately,

1 decide, I'm not going to have insurance. We'd
2 hope they wouldn't do that, but some are going
3 to do that. We -- we suspect, in
4 Pennsylvania, that number's about 7 percent
5 who are driving without insurance. We know
6 that there is more enforcement from PennDOT.
7 For example, when one re-registers their car,
8 that they are providing proof of financial
9 responsibility and giving that information as
10 well. So, that's one of the factors. You
11 could have an increase, we're not sure. And
12 we don't think that is reason enough not to
13 say that drivers in the aggregate should not
14 have adequate financial responsibility.

15 INSURANCE MINORITY CHAIRMAN DELUCA:
16 Okay. The other question I would have is,
17 I see we're forty-ninth as far as the states,
18 if I'm not mistaken. And has there been
19 any -- have you done any analysis of other
20 states to see, since their rates are higher,
21 has their uninsured rate gone up? Have you
22 done anything on that?

23 MR. BUONO: What we see as we've
24 looked into the uninsured rate is a lot of
25 time it deals more with the enforcement of the

1 uninsured versus the amount of rates that do
2 go up. It's difficult to find the number,
3 because a state like Maryland or New Jersey or
4 New York may do something different than
5 Pennsylvania when it comes to the enforcement
6 of the uninsured. So, it comes to enforcement
7 a lot of the time.

8 INSURANCE MINORITY CHAIRMAN DELUCA:
9 So, you don't believe there would be a bigger
10 change. I mean, there would be some change,
11 we know that, as far as uninsured, but you
12 don't think it would be that much for us to
13 consider that we put more uninsured drivers
14 out there.

15 EXECUTIVE DEPUTY COMMISSIONER
16 MENDELSON: Chairman, it's hard for us to
17 say. We will tell you that something that has
18 changed in the industry is competition.
19 There's more competition, you now see -- there
20 are a number of companies where previously did
21 not exist that are actually marketing to the
22 minimum-limits customer. Okay. So, the
23 customer who wants to just have insurance so I
24 have the financial responsibility so I can
25 lawfully operate a motor vehicle, that we have

1 companies now that have tailored their
2 marketing messages to that customer base. So,
3 there is -- I think, in answer to an earlier
4 question, you do have more competition now
5 that's out there. And it's targeting, you
6 know, different segments of the market as
7 well.

8 INSURANCE MINORITY CHAIRMAN DELUCA:
9 Thank you, Mr. Chairman.

10 MR. MENDELSON: Thank you.

11 TRANSPORTATION MAJORITY CHAIRMAN

12 TAYLOR: Representative Roae.

13 REPRESENTATIVE ROAE: Thank you,
14 Mr. Chairman.

15 As far as something you talked about
16 a few minute ago as far as the, you know, when
17 rates are filed they be deemed approved by the
18 state, that's a fairly, you know, common
19 thing, I think, across the country, that
20 file-and-use approach to the insurance filings
21 with the rates and stuff.

22 Do you know how many states currently
23 have a file-and-use kind of setup? Do you
24 know? Because it's my understanding that
25 there's at least several states that do.

1 MR. MENDELSON: Representative, I
2 believe that's correct. That has not been the
3 Pennsylvania model in this area, and we think
4 the model we have is the proper model.

5 REPRESENTATIVE ROAE: And I just
6 wanted to make sure that people on the
7 committee realized that there's -- I don't
8 know the exact number, but there's, like,
9 fifteen or twenty states that do it that way
10 already. It wouldn't be something that has
11 never been done before that we're just doing
12 in this legislation.

13 Thank you.

14 TRANSPORTATION MAJORITY CHAIRMAN
15 TAYLOR: Representative Barbin.

16 REPRESENTATIVE BARBIN: Thank you,
17 Mr. Chairman.

18 My question goes to the fact that,
19 given the minimum levels that we have now,
20 rank us at forty-ninth, and given the fact
21 that we have looked at this, we haven't had
22 any increases since '74, is there -- I guess,
23 I just want to put it this way, what can we do
24 to lower the amount of uninsured? And if we
25 did get some benefit to the cost of insurance

1 by redoubling our efforts on making sure
2 everybody has insurance, why shouldn't we move
3 to an Ohio model or an Indiana model, which is
4 25/50 and 25?

5 MR. MENDELSON: Again, we're not
6 advocating any specific model. I understand
7 your point, however. It's outside of our
8 agency, but the enforcement mechanism is one
9 way to do it to cut down on the number of
10 uninsured drivers.

11 But, again, that's something that has
12 been a PennDOT issue, not an Insurance
13 Department issue, and we'd have to defer to
14 them.

15 REPRESENTATIVE BARBIN: Well, it is
16 really an insurance issue, because if you
17 don't give us information, we're not in a
18 position, as the legislature, to set the
19 policy for the state. We know we have
20 problems with minimum coverages. What we need
21 to know from Insurance is, what specific
22 enforcement could our government take so that
23 our number of increase would not chase people
24 into the uninsured category?

25 And the other question that just runs

1 along with that is, Senate White is suggesting
2 25/50 and 25. Can we do this like we -- like
3 some states do it with minimum wage?
4 Establish an initial change to 20/40 and 20.
5 And then two years from now, move that to
6 25/50 and 25. And would that have effect on
7 keeping the rates lower?

8 MR. MENDELSON: I think,
9 Representative, in the answer to your
10 question, the legislature could adopt whatever
11 limits it saw fit, and certainly having a
12 gradual increase in the limits would -- one
13 would think, and based on what we have seen
14 insurance coverage-wise and the rates that
15 insurers would charge, you would have less of
16 a potential increase. And as you would raise
17 the limits, you would have an additional
18 increase. So, you could certainly --
19 certainly do that and have it be effective at
20 times in the future.

21 REPRESENTATIVE BARBIN: Would it cost
22 you any more money if we did have a two year
23 period at 20/40 and 20, and then switched,
24 knowing that it would go to 25/50 and 25 at a
25 later date?

1 EXECUTIVE DEPUTY COMMISSIONER

2 MENDELSON: Would it cost the consumer more
3 money?

4 REPRESENTATIVE BARBIN: The Insurance
5 Department and changing the rates.

6 MR. MENDELSON: No. No, it would
7 not.

8 REPRESENTATIVE BARBIN: Thank you,
9 Mr. Chairman.

10 TRANSPORTATION MAJORITY CHAIRMAN

11 TAYLOR: Representative Pashinski.

12 REPRESENTATIVE PASHINSKI: Thank you,
13 Mr. Chairman.

14 Thank you, gentlemen, for your
15 testimony.

16 Since we are forty-ninth, it seems as
17 though the other forty-nine states figured a
18 way to do this. Do you have any statistics
19 relative to the uninsured when these new
20 initiatives took place in Ohio, New York, New
21 Jersey, Maryland?

22 EXECUTIVE DEPUTY COMMISSIONER

23 MENDELSON: Representative, we are, as part
24 of the work we're taking from this, we will
25 work with the National Association of

1 Insurance Commissioners, and we will see what
2 information we can get. And they're happy to
3 report back to these committees.

4 REPRESENTATIVE PASHINSKI: Would I be
5 correct in assuming that companies are
6 insuring motorists in Ohio and Pennsylvania,
7 the same company, or New York and
8 Pennsylvania? Was that a good assumption or
9 not?

10 EXECUTIVE DEPUTY COMMISSIONER
11 MENDELSON: It depends. It really depends.
12 On the larger companies, yes. On the
13 smaller, no. We have a lot of PA-only
14 domesticated companies here. So, it depends
15 on the size. But in terms of your large
16 writers of insurance, most likely they would
17 be writing in multiple states, yes.

18 REPRESENTATIVE PASHINSKI: So, then
19 we should be able to get the costs of what it
20 costs in Ohio or New York or New Jersey for
21 the same kind of numbers that we're talking
22 about here in Pennsylvania.

23 MR. MENDELSON: Yes.

24 REPRESENTATIVE PASHINSKI: I'd
25 appreciate that. Thank you very much.

1 TRANSPORTATION MAJORITY CHAIRMAN

2 TAYLOR: And before I turn to Representative
3 Simmons, Seth, will you and Dave and Mike be
4 able to stick around for the length of the
5 hearing?

6 MR. MENDELSON: Yes.

7 TRANSPORTATION MAJORITY CHAIRMAN

8 TAYLOR: I am asking that, because if I do
9 that, then I can turn to our other testifiers,
10 and when members have questions, if you're
11 better suited to answer those, we would have
12 that availability. Is that okay?

13 EXECUTIVE DEPUTY COMMISSIONER

14 MENDELSON: Yes.

15 TRANSPORTATION MAJORITY CHAIRMAN

16 TAYLOR: All right. Great.

17 Representative Simmons.

18 And then after Representative
19 Simmons, then we'll turn to Sam Marshall after
20 that.

21 REPRESENTATIVE SIMMONS: Thank you,
22 Chairman Taylor.

23 And I think it's always good we look
24 at something like this after all this time,
25 but I think it's also good to make sure we're

1 not painting too broad of a stroke. And I
2 wanted to know, does this apply only to cars?
3 Does it apply to taxis?

4 MR. MCKENNEY: The minimum limits, it
5 would apply to commercial autos as well as
6 personal auto, but I believe the, if I'm not
7 mistaken, the public utility commission that
8 regulates the taxi service actually has higher
9 requirements for financial responsibility in
10 order to be licensed as a taxi.

11 REPRESENTATIVE SIMMONS: Okay. Thank
12 you.

13 TRANSPORTATION MAJORITY CHAIRMAN
14 TAYLOR: Okay. With that, I'll ask you guys
15 to sort of step down and then we'll -- if you
16 can be available to us, that would be great.

17 EXECUTIVE DEPUTY COMMISSIONER
18 MENDELSON: Thank you very much.

19 TRANSPORTATION MAJORITY CHAIRMAN
20 TAYLOR: Next we have at Insurance Federation
21 of Pennsylvania, Sam Marshall.

22 Good morning, Sam. You've done this
23 before, I trust.

24 MR. MARSHALL: Every now and then.
25 And it strikes me, when I do come here, what

1 your role is as a general assembly and what
2 the Insurance Department's role is as
3 regulator. And so much of what government
4 does and what each of you do and what the
5 Insurance Department does is balance among --
6 you know, try to strike a balance among
7 competing and often legitimate interests.

8 You know, it's not that the choice is
9 black and white and almost obvious. It's --
10 you know, and that's true no matter how
11 passionate people who sit where I sit may be.
12 It's really -- most of the time, it's striking
13 a balance among competing interests and where
14 there are legitimate concerns on all ends.
15 And that means that there is some nuances and
16 some legitimate view from all sides that have
17 to be considered.

18 I think that's what you face here
19 today. We will acknowledge the obvious.
20 Statutory minimums, somewhat arbitrary. They
21 vary from state to state. We are at the low
22 end, but we're not the lowest. And I'll
23 address that a little later on with some
24 detail.

25 The balance that you're struggling to

1 get here is to make sure that the car owner
2 has enough insurance, not so much to protect
3 themselves as to protect those with whom he
4 may be with an accident with, and, at the same
5 time, you need to keep it affordable. That's
6 a recognition that a car is, you know,
7 necessary and a responsibility for any adult
8 in today's society.

9 I will acknowledge that
10 Pennsylvania's minimums are on the low end.
11 We're not forty-ninth out of fifty, you know.
12 We're right there with California, New Jersey,
13 Florida, Pennsylvania. Frankly, if you were
14 running for president of the United States and
15 you had those four states, you'd be called
16 Mr. or Mrs. President. So, let's be candid
17 about where we are.

18 You know, we will also acknowledge
19 that we, as an insurance industry, will
20 provide the coverage at whatever minimums you
21 set. We're not going to retreat from -- you
22 know, we're not going to leave Pennsylvania.
23 We're not going to abandon marketplaces or
24 anything like that.

25 When you look at all that, you'd say,

1 increases might be minimum. If that were the
2 case, we wouldn't be here today. I wouldn't
3 be here today. We've studied this, and I was
4 a little bit surprised at the department. We
5 studied it a couple of years ago when this
6 issue came up, and we worked with the
7 department on it. The increases are going to
8 be anywhere from just under 10 percent to
9 close to 30 percent. You know, that's if you
10 went to the 30/60/10 level. It'd be a little
11 bit less than 20 if you went to the 25/50/10
12 level, but, again, it's a significant
13 increase. And, again, increases are going to
14 be felt the most where premiums right now are
15 already the highest, and that's southeastern
16 Pennsylvania, Philadelphia in particular.

17 Now, that's who's going to pay more
18 money. The question is, is it going to lower
19 rates for others? Is it going to lower my
20 rates, you know, people who aren't at the
21 minimum? The answer is no. I mean, we've
22 studied it. It just doesn't have that
23 corresponding effect.

24 Is it going to all of a sudden mean
25 that I'm going to have -- you know, those of

1 who purchase more than minimum coverage, are
2 we going to have more coverage than that, more
3 money available to us when we have our claims?
4 Again, I think the answer, as we have studied
5 this, the answer we believe is no. You may
6 see, in theory -- and I think it's going to be
7 true in theory more than it is in practice --
8 you may see some reduction in your
9 underinsured motorist exposure, but that,
10 again, you know, is raised by the uninsured
11 motorist increase, because the fact is, when
12 you increase the cost of coverage, some people
13 drop their coverage. And that's true -- with
14 respect to Representative Barbin's question,
15 it's true just about no matter how much
16 enforcement you have. There's certain pockets
17 where this is just not going to be the
18 priority of the local police department.

19 That's -- again, that goes to what I
20 talked about where it's a balance. You know,
21 there's -- you know, you're going to say -- I
22 know the question was asked by Representative
23 Day, what do you recommend. What I would
24 recommend, appreciating that it is a bit
25 arbitrary, that it does vary from state to

1 state, what I would recommend is that you look
2 at the average amount of the claim.

3 The department did that three, four
4 years ago, when this issue came up. What they
5 discovered was -- what we discovered and what
6 we actually, as insurers, we knew -- the
7 current minimums, the average bodily injury
8 claim and the average property damage claim
9 fit within our current minimums. They did
10 three or four years ago. They do now.

11 I appreciate everybody says, well,
12 you know what, Sam, in 1974, the cost of a
13 Hershey bar was a nickel or whatever it is.
14 God bless, but one of the phenomenons that we
15 have seen is that the average amount of a
16 bodily injury claim over the last fifteen
17 years or so has remained roughly the same.
18 And it's -- you don't need to take my word for
19 it. It's in the Insurance Department's
20 report.

21 The average amount of the bodily
22 injury claim has remained over that time
23 roughly the same. If they've remained roughly
24 the same, I'm not sure what the case is for
25 raising the minimums. I appreciate Chairman

1 Pickett asked for a study of that, you know,
2 essentially an update of the study that was
3 done before. I think that's very important
4 for the committee to have.

5 I would -- but, again, in the
6 balance, I just don't see the great consumer
7 benefit in increasing these minimums. Not --
8 you can always pick out one person or another
9 person who might get a bit more. I just don't
10 think, on balance, it's there.

11 I think it's also good, and some of
12 the people have mentioned, we need to be
13 mindful of the history of auto insurance in
14 Pennsylvania and the way we regulate the
15 minimums. A lot's been said, hey, we haven't
16 raised the minimum since 1974. We haven't
17 taken action on it. Actually, you have. At
18 one point, back in 1984, there was
19 consideration to increase the minimums, and,
20 in fact, there was -- they passed a law that
21 was going to increase the minimums by 1986 to
22 the 25/50/10 level that we've talked about
23 today. That was post haste rescinded to stay
24 with the minimums.

25 The other great law where we actually

1 considered the plight of auto insurance and
2 what should the levels of mandatory coverage
3 be was Act 6 of 1990. And there's been some
4 talk about that correctly today, because
5 everybody was faced with auto insurance as a
6 big problem. It cost too much and there
7 weren't any insurers who wanted to be in the
8 market, certain market, particularly the
9 market served at the minimum level. The
10 general assembly didn't raise the amount of
11 mandated coverage, what you did was you
12 lowered it. You created a limited tort
13 option. That effectively reduced the minimum
14 amount of coverage that people have.

15 And I think everybody recognized at
16 the time, and maybe we've all gotten a little
17 bit lax and comfortable with the fact that the
18 auto market has remained strong since then,
19 but higher minimums mean higher rates, and it
20 means higher rates for those least able to
21 afford them. That's going to mean more
22 uninsured, and I don't think that helps
23 anybody.

24 There's been a lot of talk that we
25 have an auto insurance market that's

1 competitive and affordable. I agree. I'm not
2 sure why we want to change that. I'm not sure
3 why we want to disrupt the ground rules that
4 got us to that point.

5 It didn't come by heavy regulation.
6 It didn't come by a lot of law enforcement on
7 uninsured motorists. It didn't come by cops
8 pulling people over and all that. It came
9 from a marketplace that responded to consumer
10 needs, because you had taken the steps to make
11 that marketplace both affordable and
12 predictable. I'd urge you not to go back on
13 that.

14 Again, and I just want to emphasize,
15 there's talk about, you know, aren't the
16 current minimums inadequate or outdated or
17 somehow out of step with, you know, the rest
18 of the country? Again, I think the answer is,
19 no. I think there are a lot of major states
20 with areas akin to some of our urban areas
21 where the rates are roughly right where we
22 are. You know, California, Florida, New
23 Jersey, pretty major states. You know, we can
24 talk about small states, rural states with
25 higher limits, that's a different dynamic

1 there.

2 I also would say, yes, I mean, it is
3 true that they -- as with any issue, it
4 deserves your constant enforcement and
5 monitoring. Again, I'd look to the average
6 amount of claim and let that be your guide.

7 If we have seen huge increases in the
8 amount of property damage claims where 5,000
9 is no longer adequate, then maybe it's time to
10 raise that. If we've seen huge increases in
11 the amount of bodily injury claims or the
12 amount of money that goes with them, maybe
13 it's time to raise it.

14 I don't think that's the case. I
15 appreciate Chairman Pickett asking for that
16 review. I'd urge that you certainly have
17 those fact before you before you make an
18 increase.

19 I do have some -- you know, some
20 comments on the -- just the practicality of
21 how do you this. Understand, if you do it,
22 we'll answer. Again, as I said at the outset,
23 we're not going to abandon this marketplace.
24 We're committed to Pennsylvania. We're
25 committed to serving all segments of

1 Pennsylvania, including urban income -- or
2 urban area, lower-income citizens, you know,
3 but we're going to have to get regulatory
4 approval for it.

5 As the Department just outlined, I
6 suspect that their view on how this ought to
7 go forward, it's not going to be simple,
8 quick, or automatic approval. That's going to
9 take a considerable amount of time. And
10 you're going to get a nuance there as to what
11 happens to the consumer who's at the minimum
12 level and his policy comes up for renewal and
13 the company doesn't have an approved rate for
14 the new coverage. Not sure how you deal with
15 that. Not sure you want to displace that
16 consumer. But that's a very -- just a real
17 world concern of what happens if the rates
18 aren't approved.

19 There -- there is also the question
20 of when somebody, you know, the million or so
21 people who are going to have to pay more for
22 their minimum coverage, do they also then have
23 to make all new elections? There's some cases
24 bouncing around in our court system that
25 suggests, yes, maybe they would. There's

1 language in one of the bills, the Senate bill,
2 that says they wouldn't. You know, that's
3 going to merit some legal scrutiny, because
4 you really don't want to create chaos in a
5 marketplace that's, frankly, been a very
6 stable and solid marketplace, that just --
7 selfishly, I hope for all of you, has, as
8 Chairman Keller mentioned, you know, taken
9 consumer complaints about auto insurance out
10 of your inbox. It is jobs. That's where --
11 correctly where the focus is. It's not the
12 way it used to be.

13 The other concern, and the department
14 mentioned it in its written testimony, and I
15 think it deserves scrutiny, if you raise the
16 minimums, the way the law now reads, you're
17 also going to raise the amount of uninsured
18 and underinsured motorist coverage that
19 consumers have to have. That's the way it
20 would be. So, that's just a further increase
21 for those at the minimum who want that
22 coverage.

23 I'm not sure that's what you mean to
24 do. I'm not sure that's anybody's intent.
25 That's just the way the law works, because,

1 right now, if you purchase uninsured and
2 underinsured motorist coverage, it has to be
3 at least at the level of coverage, you know,
4 to the bodily injury, property damage coverage
5 that you have.

6 You know, I would say, life goes on
7 at various auto limits. Pennsylvania's
8 history shows that at least here, it goes on a
9 little better with the current minimums. If
10 you want to change that, great, but I think
11 you're going to be embarking on a needlessly
12 risky path in which to do it. The way to get
13 people to buy more insurance is to make
14 insurance more affordable. Make it --
15 frankly, make it more consumer friendly.

16 I know that sometimes, you know,
17 Chairman Taylor mentioned I've been here
18 before, and usually when I've come here
19 before, it's to complain or it's to ask you to
20 do something, take some step and change the
21 law, you know, if only you could just address
22 every nuance I might raise. I'll take a
23 slightly different approach today and leave
24 you with the adage: If it ain't broke, don't
25 fix it.

1 I'm not saying the law can't be
2 improved, and certainly we have ideas, but I
3 think, in the bigger picture, the current
4 minimums, combined with the other things
5 you've done, have addressed a problem that
6 bedeviled everybody a number of years ago.
7 You know, we grow a little bit comfortable,
8 but I'd hope that nobody wants to go back to
9 where it was. We have a good marketplace.
10 Let's keep it that way.

11 Thank you.

12 TRANSPORTATION MAJORITY CHAIRMAN

13 TAYLOR: Thanks, Sam. Will you be able to
14 stick around as well?

15 MR. MARSHALL: Sure.

16 TRANSPORTATION MAJORITY CHAIRMAN

17 TAYLOR: And just so the members understand, I
18 mean, our testifiers, usually when you prepare
19 this, have to travel far and wide to get here.
20 I want to make sure everybody gets a chance,
21 unless my fellow chairmen have something
22 compelling.

23 Tony.

24 INSURANCE MINORITY CHAIRMAN DELUCA:

25 This will be short.

1 coverage more affordable. You know, we
2 reduced it by getting more insurers into those
3 markets, into those lower-income markets.
4 Those aren't necessarily served by all agents.

5 And I would say, our experience in
6 Pennsylvania -- and, you know, every state's
7 going to be a little bit different -- I mean,
8 Ohio doesn't have Philadelphia. You know,
9 it's a different state, different dynamic.
10 But in our experience here, when you make
11 insurance, auto insurance, more expensive, you
12 lose some of the -- you lose a portion of the
13 lower-income people who right now are
14 struggling already to buy it.

15 There was some talk by the Insurance
16 Department, for instance, saying, well, you
17 know, sure, back in 2012, you know, we said,
18 Gee, we're just coming out of the recession,
19 let's not increase the costs on lower-income
20 Pennsylvanians. I would note that while,
21 happily, you know, for most people, we are,
22 you know, pretty much out of that recession,
23 but by all reports, we're not out of that
24 recession if you're a lower-income person.
25 Life really hasn't gotten that much better

1 down at the lower-income level in
2 Pennsylvania.

3 I would think, given that the
4 increases that we're talking about here go
5 almost exclusively to lower-income people, I'd
6 be very reluctant to do it. And I think that
7 those people, in particular, when faced with a
8 harsh economic decision, may well have to opt
9 to go the uninsured motorist route.

10 INSURANCE MINORITY CHAIRMAN DELUCA:

11 All right. Thank you.

12 Thank you, Mr. Chairman.

13 TRANSPORTATION MAJORITY CHAIRMAN

14 TAYLOR: Thank you.

15 And I think, Sam, you helped us frame
16 the question pretty clearly, at least for me.
17 As we talked about the problems back in the
18 late '80s, early '90s, the average for us,
19 almost every day someone was hit by someone
20 that was uninsured. That has ceased.

21 What I'm concerned about -- and it
22 hasn't happened yet -- is someone coming in
23 and saying, I was hit by someone who wasn't
24 covered enough to pay for my injuries. So, I
25 think, what Chairman Pickett has asked for

1 and what -- those numbers, I think, will be
2 compelling and telling and most important to
3 us.

4 Chairman Keller.

5 MR. MARSHALL: If I may do so, on
6 your point, I appreciate the frustration that
7 somebody has if they're hit by somebody who
8 doesn't have enough insurance. I think,
9 frankly, the only thing worse is if you're hit
10 by somebody who doesn't have any insurance.
11 And, again, that's the balance you're talking
12 about.

13 TRANSPORTATION MINORITY CHAIRMAN

14 KELLER: Thank you, Mr. Chairman.

15 Mr. Marshall, I don't know if this is
16 a question for you or for the agents and
17 brokers who are up next. But would you know
18 what the average premium cost is for minimum
19 coverage in Philadelphia?

20 MR. MARSHALL: It's -- it's
21 expensive. It's certainly more than it is,
22 for instance, here in Harrisburg. I will get
23 that number to you.

24 TRANSPORTATION MINORITY CHAIRMAN

25 KELLER: Okay. Because an increase of up to

1 30 percent would -- what we are talking about,
2 would naturally drive people out of the market
3 again.

4 MR. MARSHALL: And I think, in
5 Philadelphia -- I mean, I'll get you the --
6 some updated numbers from some of the major
7 writers there, but it's -- it's well over a
8 thousand dollars.

9 TRANSPORTATION MINORITY CHAIRMAN
10 KELLER: Thank you. And I'm buoyed by your
11 concern for the poor today. That will give me
12 a good feeling the rest of the day.

13 MR. MARSHALL: You know, actually --
14 simply, because when everybody leaves here,
15 that's always the thing, hey, you know, since
16 when did the Insurance Federation start caring
17 about poor people? And sometimes I hear that
18 from advocates for the bill. I would say --
19 and I know you say it in -- somewhat in jest
20 or, I hope, somewhat respectfully -- you know
21 what, first, that is -- I actually do care
22 about poor people. I mean, I'm a citizen,
23 I'm a human being. Yeah, I represent the
24 insurance companies. And, you know what, we
25 care about serving those lower-income markets.

1 I think, you know, as the Insurance
2 Department acknowledged, we've had a number of
3 companies come in expressly to serve that
4 market. But it's a little bit interesting,
5 when this issue first came up, somebody said,
6 Sam, what do you think of this bill?

7 And I said, You know what, it hurts
8 poor people.

9 And you know, the way
10 whisper-down-the-lane in this building is, a
11 couple of days later, a senator said, Hey, I
12 heard you were okay with the bill.

13 I said, what -- No. What do you
14 mean?

15 He said, Well, does somebody -- I
16 went to the person who I had mentioned it to,
17 and he said, Well, Sam, when you said it hurts
18 poor people, I thought that wasn't a problem.

19 No, if it hurts poor people, it's a
20 bad bill to do.

21 TRANSPORTATION MINORITY CHAIRMAN

22 KELLER: I was only trying to jab you, but the
23 chairman's going to holler at me for you
24 taking up too much time.

25 Thank you.

1 MR. MARSHALL: I'm a sensitive guy.

2 TRANSPORTATION MAJORITY CHAIRMAN

3 TAYLOR: Thank you, Mr. Chairman.

4 I'm going to go to Representative
5 Barbin, and then we're going to go immediately
6 to our insurance agents and brokers, keeping
7 in mind that our Insurance Department is still
8 here and Mr. Marshall will remain here.

9 Representative Barbin.

10 REPRESENTATIVE BARBIN: Thank you.

11 Thank you, Mr. Marshall, for your
12 testimony. And I understand that it's always
13 a balance.

14 You would say that, from your
15 testimony, Representative Ellis's bill will
16 push poor people out of the market, raise
17 costs. Do you agree with Senator White's
18 provision, Section 3, which raises the "deemed
19 approval" language or puts in "deemed
20 approval" language and also says that prior
21 elections don't have to be reconsidered?

22 MR. MARSHALL: Agree with both
23 segments -- sections on that. The Insurance
24 Department talked about that it didn't like
25 the "deemed approved" language. I think we

1 actually have it. I think it works. I
2 appreciate what it was saying.

3 In a similar bill with that similar
4 measure, we worked with the department on a
5 compromise. That would be something to
6 consider here.

7 And I thought you were going to ask
8 me about -- one thing that I would like to
9 mention, I left paper on it. We're talking
10 today about minimum limits, but one portion in
11 Senator White's bill also gives insurance
12 companies access to PennDOT's -- what we call
13 household information, to see how many
14 licensed drivers live in a given residence.
15 You know, whatever one does with the auto
16 limits, I think that's an important thing for
17 both of your committees to consider.

18 I'm actually not that worried about
19 fraud, you know, somebody saying, Hey, you
20 know what, I live in Philadelphia. I'm going
21 to jump over to New Jersey, which has basic
22 plans and lower limits.

23 I'm more worried about somebody in,
24 you know, Haverford, Pennsylvania, where I
25 live, saying, You know what, I didn't tell you

1 that Junior got his license.

2 You know, it is important for an
3 insurance company to know how many licensed
4 drivers live at a given place, because we have
5 to cover all of those. Whether it's at these
6 minimums or some other minimums, all auto
7 insurers have to cover everybody who lives in
8 a household. That's what a named insured is.

9 If we don't have the means to know
10 who lives in that household, that's a real
11 problem. So, that is an element that is in
12 Senator White's bill, and I would hope,
13 independent of the auto minimum issue, that
14 that's something that your committees take up.

15 TRANSPORTATION MAJORITY CHAIRMAN

16 TAYLOR: Thank you, Sam.

17 We'll turn now to our insurance
18 agents and brokers, Lauren Brinjac, Jason
19 Ernest, Greg Gunn.

20 I'll take this time during this
21 transition to acknowledge the prime sponsor of
22 House Bill 1258 is with us, Representative
23 Ellis. Where's Representative Ellis?

24 And, Representative, you can join us
25 in any capacity you want, whenever you want.

1 We're also joined by Representative
2 Marguerite Quinn.

3 Good morning. Good afternoon almost.

4 MS. BRINJAC: Good morning.

5 TRANSPORTATION MAJORITY CHAIRMAN

6 TAYLOR: Whoever would like to begin.

7 MS. BRINJAC: I'll begin. Good
8 morning, chairmen and members of the committee
9 and staff. My name is Lauren Brinjac, and I'm
10 the government affairs director for the
11 Insurance Agents and Brokers of Pennsylvania.

12 With me today, at the far end, is
13 Greg Gunn, of Gunn-Mowery, LLC, located in
14 Lemoyne. Greg is a licensed insurance
15 producer and past chair of our board of
16 directors.

17 And sitting next to me here is Jason
18 Ernest, who's the deputy CEO of our
19 association.

20 We would all like to thank the
21 committee for holding this public hearing on
22 increasing Pennsylvania's minimum auto
23 liability limits. And we're happy to voice
24 our support for the two pieces of legislation
25 before you.

1 IA and B is a professional trade
2 association in Pennsylvania. Our membership
3 is comprised of about 1100 member insurance
4 agencies that are located through the state,
5 and it represents a cross-section of large and
6 small businesses that provide primarily
7 property, casualty insurance coverage to their
8 clients.

9 In communicating regularly with our
10 member agencies, it's clear that the consensus
11 is that the current minimum limits are far too
12 low and are well overdue for an increase.
13 Costs for vehicle repairs, medical services,
14 and emergency services have increased
15 considerably over the last forty-two years,
16 but the minimum required liability limits
17 haven't been touched.

18 The purpose of the minimum auto
19 limits was meant to ensure that an injured
20 party could be made whole again after an
21 accident. But with Pennsylvania's current
22 minimum coverage levels, this just isn't
23 possible.

24 And our members' concerns with the
25 current limits are not unfounded. As you can

1 see from the attached list, which is the last
2 page of our testimony, we do have the second
3 lowest minimum coverage levels in the country.
4 Our levels are just above Florida's. And
5 we've heard many times the arguments that
6 higher limits will raise premiums considerably
7 and lead to an increase in drivers dropping
8 coverage altogether. But when we look
9 nationwide, we just haven't found any basis
10 for that assumption.

11 Since 2007, about a dozen states have
12 been proactive in ensuring their citizens are
13 properly covered by raising their minimum
14 coverage limits. And that includes our
15 neighbors of Maryland and Ohio. But
16 Pennsylvania remains far behind the curve.

17 And now, I would like to turn things
18 over to Greg, and he can provide some
19 firsthand insight into the problems with the
20 current minimum coverage limits.

21 MR. GUNN: Thank you.

22 Good morning. My name is Greg Gunn,
23 and I'm a licensed insurance agent in
24 Pennsylvania and managing partner of
25 Gunn-Mowery Insurance. Gunn-Mowery has four

1 offices in the commonwealth, and we represent
2 about 10,000 families who buy personal auto
3 insurance from us, so this issue is very near
4 and dear to our hearts.

5 Having had the same minimum auto
6 insurance limits for forty years, obviously
7 there's some need to address those limits and
8 consider raising them.

9 The one concern I have is when we
10 talk about average claims and say, Gee, if we
11 have -- if the limits are high enough to cover
12 the average claim, we are okay. Well, the
13 average generally means that -- probably as
14 many as 50 percent of the claims are higher
15 than that.

16 So, there's an awful lot of claims
17 out there that are not covered because of the
18 minimum auto insurance limits, particularly if
19 you look at property damage. Five thousand
20 dollar property damage doesn't go very far to
21 cover a damaged car. And for low-income
22 people that can't maybe afford the extra
23 hundred dollars a year for higher limits of
24 car insurance, they're the same people that
25 cannot afford to pay that extra 5 or 10,000

1 dollars out of pocket when they hit somebody
2 with a 15,000-dollar car, and they only have a
3 5,000-dollar limit.

4 So, my concern for the low-income
5 folks is, as bad as that hundred dollars is
6 that they're going to pay, it's a lot worse if
7 they don't have adequate limits. And that can
8 be a life-altering claim for them in a
9 situation like that.

10 We can't escape the fact that there's
11 certain costs in exercising one's privilege to
12 drive: the cost of buying and maintaining a
13 vehicle, the cost of gas, and the cost of
14 adequate insurance. There's a good reason
15 that nobody can drive, at least not legally,
16 without auto insurance.

17 One of the things we suggest to
18 people all the time is they consider higher
19 limits and then they consider taking higher
20 deductibles to sort of offset that cost. So,
21 that's what I would say here, is you'll hear
22 numbers thrown around about the increased
23 cost, and while I've not yet heard a figure of
24 30 percent, we do hear all the time to take
25 the limits from 10/15/5 to 30/60/10, would be

1 about a 10 or 15 percent increase, depending
2 on where you are, the insurance carrier, and
3 things like that. So, it is a significant
4 cost. But I have not heard anything close to
5 the 30 percent number.

6 One of our other big concerns is that
7 we think that this increase would take the
8 burden to the appropriate party. Right now,
9 my auto insurance, if I'm in a claim with
10 somebody that doesn't have adequate auto
11 insurance, my uninsured motorist coverage or
12 my collision coverage might be paying that
13 claim, when it's more appropriately addressed
14 by the person who caused the accident. And
15 that's true whether you're wealthy or low
16 income. We just feel that this shifts the
17 burden to the appropriate party.

18 So, we urge you to consider either
19 one of these two pieces of legislation because
20 we think it just adequately addresses the
21 appropriate limits in today's environment.

22 Thank you very much, Chairmen and
23 committee people, for wanting us to examine
24 the issue. And we'd be happy to answer any
25 questions you might have.

1 MR. ERNEST: And before we get to
2 question, again, my name's Jason Ernest. I am
3 deputy CEO of the association.

4 I just wanted to address a couple
5 questions that have already come up this
6 morning and provide some perspective from the
7 agent's side.

8 As Lauren mentioned, we are a
9 Pennsylvania association, but we operate in
10 three states, Maryland and Delaware as well.
11 We were instrumental in passing the rate
12 increase, the minimum limit increase, in
13 Maryland, and raising that to 30/60/15.

14 We heard the same arguments in
15 Maryland. It's going to increase costs
16 significantly, and it's going to result in an
17 increase in uninsured motorists.

18 We do have statistics in Maryland.
19 Since that passed in 2012, the uninsured
20 motorist rate has actually gone down. It was
21 14.9 percent at the time of the increase in
22 limits. Two years later, it went to 12.2
23 percent. And there is a comparable city. We
24 have Baltimore in Maryland. We heard the same
25 arguments. So, we heard the doomsday

1 approach, and we indicated that we did not
2 feel that would occur. And in Maryland, that
3 has not occurred.

4 The key distinction, the reason you
5 would see a 14.9 percent uninsured motorist
6 rate in Maryland is purely enforcement.
7 Pennsylvania does a wonderful job of enforcing
8 uninsured motorists. We don't think that will
9 change if there is an increase in the minimum
10 limits in the state of Pennsylvania. We think
11 PennDOT will continue to do those efforts.

12 We're currently investigating, in
13 Maryland, how to get that rate down, and we're
14 using Pennsylvania as a model for Maryland to
15 consider to address uninsured motorists. So,
16 that is the Maryland example.

17 A very good question was raised about
18 taxis in Pennsylvania and does this apply.
19 For the commercial, traditional taxis, no, as
20 was mentioned properly by the insurance
21 department. They are mandated limited through
22 public utility commission. However, what we
23 do need to consider is a recent phenomenon,
24 and this is Uber and Lyft drivers. They,
25 based on our research -- it's an issue that is

1 very interesting to independent agents -- they
2 are driving under, for most cases, their own
3 personal auto insurance. We think it's a very
4 good idea that Uber and Lyft drivers would be
5 affected by this increase in limits, and we
6 think they stand to be protected better by
7 increase in the minimum limits. So, that was
8 a very good question raised.

9 We talk about -- Greg mentioned, we
10 talked about quotes and what rate increases
11 may be out there. We've pulled rate
12 information. We have a very good agent in
13 center city Philadelphia that ran quotes. And
14 rates are determined by many, many factors,
15 based on past claims of an individual,
16 unfortunately or fortunately, how you look at
17 it, credit score. There's many factors that
18 determine rates, but when our center city
19 agent took the limits to what is being
20 proposed, we saw a 74-dollar increase on an
21 annual basis.

22 So, I think, average, in the
23 explanation provided by Mr. Gunn, does hold
24 water, that an average is an average. You can
25 see rates well below. You can see rates

1 above. But we are not seeing the 30 percent
2 increase in rates when our agents are quoting
3 these with those carriers.

4 So, again, thank you for your time,
5 and we are happy to answer any questions the
6 committee may have.

7 TRANSPORTATION MAJORITY CHAIRMAN

8 TAYLOR: Thank you.

9 Eddie, I'll be right there.

10 So, I guess, Mr. Gunn, you heard
11 my -- sort of my idea what the seminal issue
12 is before you guys started testifying. So, in
13 your case, you have people coming to you who
14 have been either injured or have proper damage
15 that aren't being compensated because someone
16 else has not the proper coverage. Correct?

17 MR. GUNN: That's correct.

18 TRANSPORTATION MAJORITY CHAIRMAN

19 TAYLOR: So, where -- in your experience right
20 now -- and I know we'll get these numbers
21 because I think these numbers are critical --
22 where is that -- who is paying for that? Is
23 that more -- is that more property damage? Is
24 it medical bills not being paid? Is it
25 medical treatment not being had? Where do you

1 think that the cause of a problem to the
2 consumer is right now?

3 MR. GUNN: For me, I think the
4 biggest problem is with property damage. You
5 know, on the medical side, typically what
6 happens, people do have health insurance, and
7 so with deductibles and co-pays and
8 co-insurance, things like that, they're not
9 being paid for if the other party doesn't have
10 adequate insurance.

11 But the property damage is pretty
12 key, where someone has a 20,000-dollar car and
13 gets hit, and if the other people don't have
14 adequate insurance, either they're paying for
15 it themselves, or their insurance carrier's
16 paying for it and they're paying the
17 deductible.

18 And believe me, the phone calls you
19 all get when people can't get insurance or
20 it's really expensive or other people don't
21 have insurance, I get phone -- I get the phone
22 call right after you get the first phone call.
23 I get the second one from those same people.
24 So, the last thing we want to do is create a
25 scenario where we create more confusion or

1 problems in the marketplace.

2 TRANSPORTATION MAJORITY CHAIRMAN

3 TAYLOR: They might call is, secondly, if you
4 don't help them. But one way or the other, we
5 get called.

6 Chairman Pickett.

7 INSURANCE MAJORITY CHAIRWOMAN

8 PICKETT: Thank you.

9 Mr. Gunn, what percentage of your
10 clients would actually buy minimum insurance?

11 MR. GUNN: This is a wild guess, but
12 I would guess maybe 10 to 15 percent.

13 TRANSPORTATION MAJORITY CHAIRMAN

14 TAYLOR: Representative Pashinski.

15 REPRESENTATIVE PASHINSKI: Thank you,
16 Mr. Chairman.

17 And thank you very much for your
18 testimony.

19 You indicated that we are indeed
20 forty-ninth, so there's a little controversy
21 with respect to those numbers.

22 The question I have for you is, since
23 you are covering folks in a number of states,
24 what is your minimum for -- do you have a
25 15/30 that you offer, or is your minimum 25/50

1 in Delaware?

2 MR. ERNEST: Delaware is 15/30/10.

3 And I'm sorry the question is --

4 REPRESENTATIVE PASHINSKI: Well, the
5 question is then, what -- and I realize
6 there's a lot of different factors in
7 determining the premium, based on the number
8 of incidents, et cetera. Can you give me an
9 average of what that premium might be in
10 Delaware for that minimum?

11 MR. ERNEST: Offhand today, we can't,
12 but we can certainly provide that information.
13 You're looking for the average premium rate
14 for a 15/30/10 policy in Delaware.

15 REPRESENTATIVE PASHINSKI: Right.
16 Yes. And I'm also looking for -- pardon me.
17 I have a little cold here. I'm looking for
18 the 25/50 also.

19 MR. ERNEST: If it were to increase
20 in Delaware. We can certainly pull that from
21 our members in Delaware.

22 REPRESENTATIVE PASHINSKI: Thank you.

23 TRANSPORTATION MAJORITY CHAIRMAN

24 TAYLOR: Thank you.

25 With that, we'll -- could you all

1 stick around as well? Okay.

2 Then we're going to move then right
3 now to the Pennsylvania Associate for Justice.
4 We have Scott Cooper, Ron Kovler, and James
5 Haggerty.

6 And then to the members that are
7 here, after this testimony, it will be wide
8 open. You can ask any one of our testifiers
9 whatever you would like, and we'll go right up
10 until the time session begins.

11 Scott, if you're first --

12 MR. COOPER: Yes, I am.

13 TRANSPORTATION MAJORITY CHAIRMAN

14 TAYLOR: You may begin.

15 MR. COOPER: Thank you, Chairman
16 Taylor, Chairlady Pickett, Chairman DeLuca,
17 and Chairman Keller. My name's Scott Cooper.
18 I'm a local attorney here with the law firm o
19 Schmidt Kramer. I'm also the past president
20 of the Pennsylvania Association for Justice,
21 Pennsylvania Trial Lawyers Association.

22 Chairman DeLuca laughed. Good.

23 Ron Kovler is the past president of
24 the Philadelphia Trial Lawyers Association,
25 also a member of Kovler and Rush, in

1 Philadelphia.

2 And Jim Haggerty is the past
3 president of the Pennsylvania Defense
4 Institute. And he's also a partner with now a
5 plaintiff's firm, Haggerty, Schleifer and
6 Kupersmith, in Philadelphia.

7 We're going to defer from the
8 testimony that we've submitted. Just a couple
9 points I want to raise, and then I'll turn it
10 over to Mr. Kovler, and Mr. Haggerty will take
11 any questions.

12 As far as the limits themselves,
13 everyone here knows they haven't been raised
14 since 1974. I think one of the things we
15 should look at is bringing things up to the
16 present day, as even last week the legislature
17 passed the photo appraisal bill that actually
18 updated the appraisal act from 1972 and
19 brought things into the current age, and the
20 Insurance Federation was in favor of that.
21 So, we're really kind of asking for the same
22 thing, bringing things up to the present day.

23 As far as inflation, if you actually
24 looked at the inflation, which is in the
25 materials, if we looked at regular inflation

1 from 15/30 in 1974, we'd actually be asking
2 for an increase to 72/144,000, which would be
3 crazy. And medical inflation, it would be
4 158,000/318,000, which, you know -- unless
5 we're talking rupees or rubles or whatever, I
6 don't think that's ever going anywhere.

7 So, it's really -- I look at it as
8 it's crumbs and not a loaf. It's something,
9 as Mr. Marshall said, you look at a balance.
10 And right now the balance is not weighing in
11 favor -- it's weighing more in favor of the
12 insurance companies and the person who drives
13 with the low limit, as opposed to the victim.

14 As far as rates, and there's been a
15 lot of talk of rates, the experience -- and we
16 actually have, if you look in the materials,
17 on page five of the victim story, the best way
18 to put it, and it came up about Ohio and
19 Maryland and what happens, is I think you need
20 to take what Mr. Marshall said, where he said
21 something to the extent: Look at experience
22 being your guide. And the guide here can be
23 the other states. And if you look at the
24 other states, for instance, Ohio, the premium
25 the year -- this came up, the premium the year

1 before the change in 2012 was 713 dollars.
2 The premium the year of the change was 738
3 dollars, which comes out to about 25 cents a
4 week or 25 dollars for the year. And if you
5 look at other states, there's -- Maryland
6 went, 1041 dollars to 1048 dollars.

7 So, historically, in these other
8 states, the rates have not gone up. And,
9 really, it's the companies that determine how
10 to raise the rates based on their experience.
11 So, if they're using the rates from these
12 other states, there really is not going to be
13 a 30 percent increase. In fact, I think we
14 could provide information that would show it
15 wouldn't be more than, like, 3 to 5 percent
16 statewide, as opposed to 30 percent.

17 The Insurance Department did not do a
18 study that says there's going to be 30 percent
19 increase in rates. What they did was a market
20 survey about how many policies were 15/30 in
21 certain zip codes and area codes in the state,
22 and that was what was done. It wasn't, like,
23 an actual rate, this is how rates are going to
24 be impacted.

25 When you look at the companies --

1 that's how they're setting the rates. And
2 when they're looking at trying to help poor
3 people, I think it's good, yes, you want to
4 protect the poor people, but, historically,
5 these are not the people who even drive
6 vehicles. They usually, especially in
7 Philadelphia, take buses or walk to work.
8 That's why it's an urban area.

9 In addition, the companies over the
10 years have gotten rate increases, and the rate
11 increases affect everyone across the state.
12 Last year, Liberty Mutual got a rate increase
13 of 10.2 percent, which increased premiums for
14 over 60,000 of their policyholders. These
15 increases would be limited to only the people
16 who went from 15 to 25 -- 15/30 to 25/50, and
17 there's not even that many people. So, we
18 would actually submit that what's happening
19 here is, the insurance companies are more
20 concerned that they're just not going to be
21 able to spread the profit around to make a 10
22 percent increase because they have to account
23 for this additional increase from 15/30 to
24 25/50.

25 Last, one thing which really was

1 mentioned a little bit, has been glossed over,
2 was in 1974, when there was the initial bill
3 or the initial law, and then in 1990, with
4 limited tort and full tort, two important
5 factors have kind of -- one has definitely
6 changed. One, prior to 1990, there was
7 unlimited medical bills. And with unlimited
8 medical bills, that was really what was
9 driving the cost of premiums. Now that
10 mandatory PIP coverage, it's 5,000 medical
11 bills.

12 In addition, in 1990, there were not
13 so many liens and reimbursement claims for
14 medical bills, like Medicare, Department of
15 Public Welfare, HMOs, ERISA plans. So, what's
16 really happening in a lot of these cases are
17 the people, especially in ERISA plans, where
18 the ERISA plans do not negotiate, and people
19 have to be reimbursed, the plans get
20 reimbursed, people are getting no money.

21 I have a case right now where there's
22 a 15,000-dollar recovery and almost all the
23 money is going to have to go back to the
24 lienholder, because they don't have to
25 negotiate. It's federal law. And, in 1990,

1 a single woman, retired for many years as a
2 worker in Philadelphia, who was on a grocery
3 mission, crossing Castor Avenue in northeast
4 Philadelphia, when she was hit by a negligent
5 driver, and that driver maintained 15,000
6 dollars worth of coverage.

7 Patsy, who had no car, had no ability
8 to purchase automobile insurance, certainly no
9 ability to purchase underinsured motorist
10 coverage or uninsured motorist coverage, was
11 struck, thrown across the road, taken by
12 ambulance to Einstein Medical Center, where
13 she suffered through bruises, broken bones,
14 lacerations, stitches, in the hospital for
15 several days, incurred medical expense well
16 over 35,000 dollars. We stopped counting
17 after a while.

18 She was covered by Medicare, and
19 Medicare laid out a lot of money for her, but
20 when the time came for the insurance company
21 of the vehicle insuring the person who hit
22 her, they couldn't turn over the 15,000
23 dollars fast enough. In fact, what happened
24 was, the job that I had to do was primarily
25 trying to negotiate with Medicare to reduce

1 their lien so that Patsy would be able to take
2 home some money to cover some of her other
3 expenses that would not otherwise be paid.

4 What happened to Patsy is only one
5 story of hundreds or perhaps thousands. You
6 have two other stories in your packet which
7 also symbolize what this horrible, in my
8 opinion, the horrible law does.

9 There are many victims to her story,
10 and let's not lose sight of that. Not only is
11 she a victim, but medical providers and
12 hospitals who have not gotten paid back their
13 fair share, as well as lienholders, such as
14 IBC, such as Aetna, all those people who would
15 have a subrogation claim have not been paid
16 back. And let's not forget Medicare, let's
17 not forget Medicaid, and, ultimately, the
18 taxpayers, they have not gotten paid back.
19 And this is multiplied by hundreds, perhaps
20 thousands of times over the years.

21 One thing we should not lose sight
22 of, particularly in the Philadelphia area --
23 and I see victims all the time. I read their
24 declaration sheets and their insurance
25 policies. Certainly there are certain people

1 who are poor that cannot afford the insurance,
2 as you've mentioned. However, there are many,
3 many people who certainly can afford it, but
4 chose to take the minimum, because why?
5 Because they can. And that's not fair to the
6 victims. That's not fair to the victims.

7 Let's not lose sight of the many poor
8 people in Philadelphia and others who board
9 buses throughout Pennsylvania, who have
10 no insurance, who walk across the street in
11 Philadelphia and others, who get hit, and who
12 become victimized. That is simply not fair to
13 them.

14 MR. HAGGERTY: My name is Jim
15 Haggerty. I'm an attorney. For thirty-two
16 years, I represented insurance companies in
17 Pennsylvania. During that time, I was a
18 member of the Pennsylvania Defense Institute.
19 For approximately twenty-five years, I was
20 chairman of that organization's automobile law
21 committee. I served on the board of directors
22 for fifteen years and was president of the
23 Pennsylvania Defense Institute in 2007.

24 I worked with many companies,
25 defended and litigated case on their behalf,

1 participated in many important decisions,
2 helped write insurance policies.

3 Currently, I'm on the board of the
4 Pennsylvania Association for Justice. I'm
5 also a member the disciplinary board of the
6 Supreme Court of Pennsylvania.

7 Three years ago, I decided to no
8 longer represent insurance companies. There
9 has been a paradigm shift in the insurance
10 industry over the past ten to fifteen years.
11 It is now rare for an insurance company to
12 actually care for their customers.

13 Primarily and predominantly, insurers
14 are only interested in the bottom line, in
15 profits. How do they do that? By increasing
16 premiums and reducing claim payments. They do
17 this by engaging in a marked effort to
18 decrease all payments, whether it be to
19 injured victims, body shops, health care
20 providers, even their own attorneys. Thus, it
21 is with a bit of skepticism that I listened to
22 the concern of the insurance companies for the
23 poor and the impact that increased limits will
24 have upon them.

25 Insurance companies are required to

1 handle claims promptly and fairly. But don't
2 kid yourself. If you want prompt, it's not
3 fair. If you want fair, it's not prompt.

4 Where once insurers were concerned
5 about their customers, that time has passed.
6 Insurers don't care about the poor bearing the
7 burden of increased coverages. In reality,
8 insurance companies routinely use their
9 superior economic power and bargaining power
10 to grind down claimants who can't afford to
11 take them on.

12 Yes, cost control is important, but
13 let us not lose sight of the significance of
14 the remediation and restoration of accident
15 victims to important and productive citizens
16 in the commonwealth. The supreme court itself
17 has noted the importance of compensation of
18 accident victims.

19 In the case of Williams versus Geico,
20 Justice -- now Chief Justice Saylor stated
21 that he would once and for all abandon the
22 rubric that cost containment was the
23 overarching policy concern of the motor
24 vehicle financial responsibility law.
25 Justices Todd and Baer joined with that same

1 sentiment.

2 The restoration of motor vehicle
3 accident victims to productive roles in the
4 community is an important goal of the
5 financial responsibility law. An increase of
6 the limits from 15/30 to 25/50 can make a
7 significant difference in restoring the life
8 of an automobile accident victim. The
9 increase of the mandatory minimum limits is
10 not only fair, it's the right thing to do.

11 Thank you.

12 MR. COOPER: And before we would take
13 any questions, just to answer a couple of the
14 questions that the committee members had, also
15 on the -- uninsured motorist rates, on page
16 five, there's that chart I had mentioned about
17 the premiums, bodily injury. It does show the
18 experience in those states, particularly
19 Ohio -- well, Ohio, they don't have for that
20 year, but Oregon, South Carolina, Alabama,
21 Illinois, that show most of the states, the
22 uninsured motorist premiums actually went down
23 after the rates were changed.

24 And also, on the question about
25 forty-ninth or forty-fifth or something, the

1 next page, on page six, has all the lists.
2 And I guess it's a matter of -- I guess
3 it's -- we're either tied for forty-fifth or
4 we're forty-ninth. It's one of those things
5 when you play golf, you're either -- you'd
6 rather be tied for forty-fifth, and not
7 forty-ninth. But 15/30/5 would put us the
8 second lowest in the country. I think
9 that's -- depending which way you look at the
10 numbers.

11 But we'd be happy to answer any other
12 questions.

13 TRANSPORTATION MAJORITY CHAIRMAN

14 TAYLOR: Thank you. And not -- thank you,
15 gentlemen, for your testimony. But this
16 question could be for you, for anybody else
17 who already testified. If you have an answer,
18 you'll need to come up front and identify
19 yourself.

20 But -- and if someone said this, I
21 apologize. But for the benefit of myself and
22 the members, what percent of everyone covered
23 in Pennsylvania have the minimum insurance
24 coverage? What percent of the market are we
25 talking about here?

1 MR. COOPER: I think the rate survey
2 that was done was about 15 percent.

3 TRANSPORTATION MAJORITY CHAIRMAN

4 TAYLOR: Anybody else have a different answer?

5 MR. MCKENNEY: I'm Mike McKenney,
6 with the Pennsylvania Insurance Department.

7 We studied that -- Mike McKenney,
8 with the Pennsylvania Insurance Department.

9 We studied that in 2011, on Senate
10 Bill 1339. We found, I believe it was, 5 and
11 a half percent, approximately, statewide had
12 minimum limits. It was a little bit higher in
13 the urban areas.

14 MR. COOPER: I'll go with his number.

15 TRANSPORTATION MAJORITY CHAIRMAN

16 TAYLOR: So, any sense of Philadelphia itself?
17 Just higher than the minimum?

18 MR. COOPER: It was approximately 20
19 percent in the Philadelphia region.

20 TRANSPORTATION MAJORITY CHAIRMAN

21 TAYLOR: Chairman Pickett.

22 INSURANCE MAJORITY CHAIRWOMAN

23 PICKETT: Thank you.

24 You mentioned that many people might
25 buy or might be buying minimum insurance just

1 because they can, but the gentleman who was
2 one of the independent brokers mentioned that
3 he clearly cautions his clients that if they
4 have greater assets than they are covering in
5 insurance, that they're taking a very good
6 risk of losing those assets.

7 So, to come back to you, in fact, if
8 someone had assets above what they had insured
9 for in a dollar fashion, you would sue them
10 for the different. Right?

11 MR. COOPER: No, we do not. Well, if
12 they had the assets, we would.

13 INSURANCE MAJORITY CHAIRWOMAN

14 PICKETT: Right.

15 MR. COOPER: But, generally, the
16 person doesn't have the assets. The problem I
17 think you see more and more now is companies
18 that advertise, and it's not generally the
19 State Farms and the Eries and All States, it's
20 the General, Safe Auto, American Independent,
21 where they're advertising: Stay legal for
22 less. And they're really advertising not for
23 being responsible but we'll get you the
24 cheapest rate possible, and they don't really
25 have agents.

1 The people who have agents -- we have
2 an attorney in our office who used to be an
3 agent and now went to law school and now he's
4 a lawyer, he always said he counseled people:
5 Don't take less than 100,000/300,000.

6 And the problem is not -- but it's --
7 when you have the minimum, people go in and
8 say, Give me the cheapest, and that's what I
9 want. It's like that's why they say, Give me
10 limited tort. What we see is the problem
11 becomes, the person gets in the accident,
12 their -- they're hurt significantly. Then we
13 end up having to answer, well, this is the
14 law. It's 15/30. It hasn't been changed.
15 Why isn't the law changed? Then the agents
16 get the call, too.

17 So, it's not generally you see people
18 with agents. It's people who are calling up,
19 going in the free market, Esurance, anyone
20 who's advertising, and everyone's seen those
21 ads. It's the lowest common denominator.

22 MR. KOVLER: If I may, if I may, I
23 was the one that brought that subject up. I'm
24 talking about the person who can afford
25 additional insurance, who is, for all

1 practical intents and purposes, judgment
2 proof, but they might make 75, 100,000,
3 120,000 a year, and they can afford it. They
4 choose oftentimes to get 15 coverage because
5 they can. In other words, it's the cheapest
6 they can get, and that's all they really care
7 about. Until the time comes when they
8 themselves or somebody in their own family is
9 injured, they come to see me, for example, and
10 I say, Well, wait a minute. Why don't you
11 have 100,000 of liability plus another hundred
12 thousand for UM/UIM? You have a great job.
13 You can afford it. And the conversation
14 continues. That's what I was referring to.

15 MR. HAGGERTY: If I may just add
16 also, as far as pursuing people's assets, in
17 defending cases for over thirty-two years,
18 handling thousands and thousands of automobile
19 accident lawsuits, I never once saw a
20 plaintiff's attorney pursue anyone for other
21 than the insurance coverage.

22 INSURANCE MAJORITY CHAIRWOMAN

23 PICKETT: Interesting. Okay. I was just --

24 MR. COOPER: And the reason also is
25 because, when you get offered the 15/30, the

1 company requires the release, and part of the
2 release is you won't sue their person. So,
3 you'd have to turn down any money for your
4 client.

5 INSURANCE MAJORITY CHAIRWOMAN

6 PICKETT: Okay. I was just balancing that
7 with thinking that the person who buys the
8 minimum really is struggling to buy any kind
9 of insurance, and that's why they buy it.

10 Thank you.

11 TRANSPORTATION MAJORITY CHAIRMAN

12 TAYLOR: Chairman DeLuca.

13 INSURANCE MINORITY CHAIRMAN DELUCA:

14 Thank you, Mr. Chairman.

15 As I heard the Insurance Department
16 testify that 5 and a half percent have the
17 minimum, what justification -- and I
18 understand 20 percent in Philadelphia. But
19 how do we justify being that there's
20 approximately 94 percent who keep the -- have
21 the higher limits, paying more for their
22 insurance, when they keep the higher limits?

23 MR. COOPER: They're not going to get
24 hit with an increase because --

25 INSURANCE MINORITY CHAIRMAN DELUCA:

1 They're not going to get hit with the
2 increase?

3 MR. COOPER: No, they shouldn't,
4 because they're not -- the only time that 94
5 percent gets hit is at the end of the year
6 when 100 percent gets hit. But the 10 percent
7 increase by Liberty Mutual, they're increasing
8 those rates across the board. This is just an
9 increase in the 15 -- from 15/30 to 25/50.
10 So, it would just be that small subset are the
11 people who should get the increase.

12 MR. HAGGERTY: It doesn't push
13 everybody out. It only affects the people who
14 have the minimum limits.

15 INSURANCE MINORITY CHAIRMAN DELUCA:
16 Okay. Thank you.

17 TRANSPORTATION MAJORITY CHAIRMAN
18 TAYLOR: Representative Doyle Heffley.

19 REPRESENTATIVE HEFFLEY: Thank you,
20 Mr. Chairman.

21 As stated, it was 5 percent -- about
22 5 percent have the minimum insurance, about 20
23 percent in, say, the city of Philadelphia.
24 What percentage of insured motorists have the
25 extra coverage for the under -- the

1 underinsured coverage, as -- you know, to
2 compensate for those additional costs? Is
3 there -- do we have that percentage?

4 MR. COOPER: We don't have the
5 percentage, but just from experience, it's not
6 100 percent, because most -- a lot of people
7 reject it. But one thing which I think would
8 also need -- maybe the department has a number
9 on that as far as how many people have it, but
10 one thing which the committees should take
11 into consideration is just because people have
12 that coverage and they would be entitled to it
13 does not mean that they're going to get it.
14 Because -- it's referenced in our testimony,
15 there is exclusions in certain policies.

16 Mr. Haggerty talked about the
17 Williams case. If a person -- and this is
18 just a brief example -- Mr. William is a state
19 police officer. He's driving his officer
20 vehicle at the time of the accident. The
21 state police are not required to have
22 underinsured motorist coverage, which would be
23 the primary. He's rear ended by a
24 15,000-dollar insured and has significant
25 workers' comp claim because he's working at

1 the time.

2 The state police aren't going to have
3 underinsured motorist coverage. In his case,
4 he had significant underinsured motorist
5 coverage, but he could not get it because of
6 an exclusion that says if you're driving your
7 work vehicle at the time, which basically
8 everyone has in their policies, he can't cover
9 it.

10 So, if we are going to look at that,
11 you need to take into consideration every
12 factor, because more and more exclusions are
13 being enforced, and unfortunately, it's in
14 cases that I lost to this guy, so -- more than
15 three years ago.

16 TRANSPORTATION MAJORITY CHAIRMAN

17 TAYLOR: Representative Pashinski.

18 REPRESENTATIVE PASHINSKI: Thank you,
19 Mr. Chairman. Mr. Chairman, I appreciate the
20 opportunity again.

21 We obviously have three distinguished
22 and certainly highly respected organizations
23 here today. Now, we've had testimony from all
24 three of you, and there's been some slight
25 variations between all three of you. Do any

1 of all the three that are here today, do you
2 care to rebut any of those statements that
3 have been made?

4 MR. COOPER: Rebut? Sure.

5 REPRESENTATIVE PASHINSKI: I mean,
6 I heard --

7 TRANSPORTATION MAJORITY CHAIRMAN

8 TAYLOR: Representative, you know, I'll
9 actually take the chairman's prerogative of
10 that's enticing, but I want to make sure we
11 get through questions. If there is time left,
12 I will -- while I will let -- we do that, and
13 we certainly did it in liquor, and we do it in
14 transportation now and then. But I want to
15 make sure that the members who have
16 particularly substantive questions can do
17 that.

18 REPRESENTATIVE PASHINSKI: Thank you,
19 Mr. Chairman.

20 TRANSPORTATION MAJORITY CHAIRMAN

21 TAYLOR: Representative Kampf.

22 REPRESENTATIVE KAMPF: Thank you,
23 Mr. Chairman.

24 Gentlemen, I don't recall practicing
25 in your particular area, but my question is,

1 are there different payout experiences or
2 paying-the-limit experiences depending on what
3 county you're in? In other words, is it
4 tougher to get the limits in Chester County
5 than it is a Philly?

6 MR. COOPER: Yes. Unqualified yes.

7 REPRESENTATIVE KAMPF: Okay. Is
8 there any experience on how often you get the
9 limits in Philadelphia? I mean, 10 percent of
10 the time you bring a claim, 20, 30.

11 MR. KOVLER: No. That -- quite
12 frankly -- if I may, quite frankly, that's
13 almost impossible to tell. All I can tell you
14 is, from my own experience, that, generally
15 speaking -- there's no secret about this --
16 that, generally speaking, that claims that are
17 presented in the Philadelphia area, usually
18 insurance companies are inclined to pay more,
19 as opposed to, for example, Montgomery County,
20 Chester County, or some of the other suburban
21 counties, for any number of reasons, but
22 that's the truth.

23 REPRESENTATIVE KAMPF: Okay. So --
24 right. In Philadelphia, it's more likely
25 you're going to get a higher amount than in

1 Montgomery County or Chester County. Right?

2 MR. KOVLER: I would agree with that.

3 REPRESENTATIVE KAMPF: Okay. Thank
4 you.

5 TRANSPORTATION MAJORITY CHAIRMAN

6 TAYLOR: Any other questions? Members?

7 Going back to Representative
8 Pashinski, if I understand your notion, was
9 that if anybody who is already here who
10 testified previously had any rebuttal
11 evidence, is that --

12 REPRESENTATIVE PASHINSKI: Yes.

13 TRANSPORTATION MAJORITY CHAIRMAN

14 TAYLOR: Yeah. So, we have a few minutes,
15 anybody want to do that?

16 Sam, have fun. Just everybody move
17 over. This is -- you should have seen liquor
18 back in the day, Sam. We used to almost have,
19 like, a referee and first fights, but that's
20 what we wanted.

21 MR. MARSHALL: You know, not so much
22 rebuttal, although I'd be more than happy to
23 do that, but I was limited to only a few
24 minutes. Except that what one of the things,
25 hearing a lot of the different numbers here

1 today, it goes to the point of what Chairman
2 Pickett mentioned, that you really do need to
3 dig into some of the facts. You know, there
4 was some talk, Well, this really wouldn't
5 affect that many people. If it wouldn't
6 affect that many people, I suspect you
7 wouldn't have quite the interest in this
8 measure that it has generated.

9 But I think that that's got to be the
10 threshold question. How many people are going
11 to have to pay more? And who are those
12 people?

13 That was studied back in the
14 2011-2012 study, and the numbers were high.
15 It's -- we submitted the Department's earlier
16 report, I think you already have them for the
17 record anyway, but I think if you look at
18 those numbers, that's really what you need to
19 figure out. How many people are you going to
20 make pay more for auto insurance? What's
21 going to be the result of that? What benefit
22 do they get out of that? What benefit do
23 other people get out of that? And who are
24 those people?

25 I don't think that there are a lot

1 of, you know, people making a hundred grand a
2 year. I think they are people who are much
3 lower income than that. And that's our
4 experience as an insurance industry.

5 But I think if I start with that
6 question, who is going to pay more, how much
7 more, and what benefit does everybody else
8 get, I think that's a very good place to
9 start.

10 And, again, I mean, I'd urge -- and
11 I'm not a big believer in data calls, as some
12 of my regulatory comrades know, but I think
13 that's a legitimate one on this public policy
14 question.

15 Thank you.

16 TRANSPORTATION MAJORITY CHAIRMAN

17 TAYLOR: Representative Pashinski.

18 REPRESENTATIVE PASHINSKI: That's the
19 whole point. That's the whole point here.
20 What we have to do as legislators is try to
21 get the right information in order to make the
22 decision, and some are saying that the
23 increases in those minimums are going to raise
24 anywhere from 10 to 30 percent, and yet these
25 charts are demonstrating that's not the case.

1 So, in order for us to make a decision, we
2 need to have hard numbers.

3 And I would definitely ask the
4 Insurance Federation and our Insurance
5 Department and certainly you gentlemen to
6 verify the numbers. You know, is it going to
7 go up 30 percent or not? Is it going to go
8 up, as some of these charts indicate, only a
9 few dollars?

10 Thank you.

11 TRANSPORTATION MAJORITY CHAIRMAN

12 TAYLOR: Thank you, Representative.

13 And there could have been subsequent
14 hearings to the one on December 6, 2011, that
15 I noticed the response to the data call was in
16 May. Let's hope that we can do that a lot
17 quicker than that. Right? And -- because I
18 think that they are important issues and
19 important questions.

20 TRANSPORTATION MAJORITY CHAIRMAN

21 TAYLOR: Representative Donatucci.

22 REPRESENTATIVE DONATUCCI: Thank you,
23 Mr. Chairman.

24 Unfortunately, I missed the
25 beginning, but it's my understanding

1 Philadelphia does have higher insurance rates
2 than the rest of the state. Can you tell me
3 why?

4 Is it true that -- I've been told
5 this, and I don't know how true this is --
6 that because of the area I live in, that there
7 are sports complexes, there's venues for
8 concerts, there is I-95, and there's an
9 expressway, does that all contribute to my
10 cost being higher?

11 MR. HAGGERTY: Certainly when
12 policies are rated, geographic region is taken
13 into consideration. When insurers set rates,
14 they look at any number of things. They look
15 at the age of the driver, the gender, the
16 limits of coverage, the geographic region, et
17 cetera. So, certainly it has an impact.

18 REPRESENTATIVE DONATUCCI: So, in
19 other words --

20 MR. HAGGERTY: I'm sorry. No more
21 gender.

22 MR. MCKENNEY: Mike McKenney,
23 Pennsylvania Insurance Department.

24 I think the answer to your question
25 is -- is more simply there's more accidents.

1 And there's more accidents because there's
2 more traffic generators. There's more cars on
3 the road, and there's just more accidents.

4 There's also a higher uninsured
5 motorist population in the Philadelphia
6 region.

7 But, conversely, there's also a
8 higher percentage of limited tort electors
9 that helps bring that down a little bit.

10 REPRESENTATIVE DONATUCCI: Thank you.

11 Thank you, Mr. Chairman.

12 TRANSPORTATION MAJORITY CHAIRMAN

13 TAYLOR: Anyone else from members?

14 Chairman Hennessey.

15 REPRESENTATIVE HENNESSEY: Thank you,
16 Mr. Chairman.

17 Sam, when we're dealing with the
18 federal limits, and the attorney -- I didn't
19 practice much -- there we go. Thank you. I
20 didn't practice plaintiffs/claimant law, so --
21 but when you're dealing with a certain minimum
22 limit of 15,000 dollars, if an attorney sees
23 somebody who really has no other available
24 assets or at least not readily available
25 because they might be married and have things

1 in joint names, doesn't the fact that the
2 15,000-dollar limit exists sort of dictate the
3 fact that settlements will be underneath that
4 15,000-dollar cap?

5 I mean, and if we had -- if we raised
6 it to 20 and 25, wouldn't it follow that
7 settlements would be up to that amount,
8 because that's the available money in cash
9 that an attorney can get for his victim?

10 MR. MARSHALL: Is the mic -- usually
11 people can hear me pretty well, but you never
12 know.

13 You're right. You're right if you
14 were to assume that 15,000 dollars became what
15 everybody gets. That's not the case. And I
16 think that's what the study will show.

17 I think what the study shows is that
18 actually the claims are below that. So -- you
19 know, but, again, I mean it is actually one of
20 the worries, if we insure it, all of a sudden
21 that becomes the new norm.

22 I'm not sure that it's good for
23 anybody in terms of people who pay premiums as
24 well as people who have claims if the value of
25 the claim all depends on what the amount of

1 insurance is. I mean, do you want to make the
2 minimum a ceiling, a floor, things like that.
3 Those are the nuances.

4 But, again, that goes -- that's
5 information that will come out in the report.
6 When the department studied it back in 2012,
7 they found that the average bodily injury
8 claim and the average property damage claims
9 were below the minimum level. So, it wasn't
10 as if the minimum level just became what
11 everybody got. And I think that's where you
12 need that -- again, that is where you need
13 that study updated. And that's something that
14 I know both committees apparently are going to
15 do.

16 REPRESENTATIVE HENNESSEY: Gentlemen,
17 could you take a stab at that?

18 I mean, from an attorney's point of
19 view, representing the plaintiff, if you know
20 that the deep pocket the insurance company has
21 a limit of 15,000 dollars and it's going to be
22 fruitless or likely fruitless, doesn't that in
23 itself drive the settlement decision? Because
24 it would seem to me that the alternative would
25 be to pursue the matter in court, delay the

1 receipt of any money, and then hope that you
2 are able to uncover assets that are seizable
3 as a result of -- individually held assets by
4 the driver, the, you know, the defendant in
5 the case.

6 MR. KOVLER: That's almost like a
7 rhetorical question, but I'll do the best I
8 can in the answer.

9 The fact of the matter is, as a
10 practical matter, first of all, as Jim said,
11 we never go after personal assets. It's just
12 not a practical way to handle the claim.

13 The fact of the matter is, that when
14 we're having a -- we have a case against
15 someone with 15,000 dollars worth of coverage.
16 Let's do three scenarios: One, the case is
17 worth 10 to 15,000 dollars. Another case,
18 it's worth 25 to 50,000 dollars. Another
19 case, it worth over 50 thousand dollars.

20 Here's what happens, as a practical
21 matter. The cases worth 10 to 15,000 dollars,
22 we're never going to get 15,000 dollars,
23 because the insurance company's going to know,
24 as a practical matter, that's the most they're
25 going to have to pay. So, we settle that case

1 for 12,000, 12,5. And that's fine. That's
2 the way we do business.

3 For the cases worth more than 15,000
4 dollars but perhaps not a lot more than 15,000
5 dollars, as a practical matter, what we
6 usually do, if we don't have to get into
7 litigation, we'll settle the case for 14,
8 14,5, because, as a practical matter, it
9 doesn't make sense to go after that.

10 In a case that's worth much more than
11 the minimum limits, as a practical matter,
12 insurance companies will ordinarily pay 15,000
13 dollars, unless it's very a recalcitrant
14 insurance company, which one of things we have
15 on our side is to perhaps make them ultimately
16 pay more than the 15,000 dollars under the
17 auspices of bad faith.

18 REPRESENTATIVE HENNESSEY: Okay. But
19 the larger claim that gets settled, the
20 insurance company might write a check for
21 15,000 bucks and want to be out of it. Do
22 they then just waive that release provision
23 that somebody testified to so that you can --
24 because, otherwise, you'd have to reject the
25 15,000 in order to go further.

1 MR. KOVLER: What we typically do, if I
2 may, there's two options that we have. One, to see
3 whether or not we have uninsured motorist coverage,
4 which often time we do, but not always. And the
5 other thing is that we do what's called an asset
6 check. We do that primarily to satisfy ourselves
7 that we make sure that this person doesn't have
8 assets, and, secondarily, to satisfy our clients
9 that it's not a good idea to go after this person's
10 personal assets, if there are any.

11 REPRESENTATIVE HENNESSEY: Okay.
12 Thank you.

13 TRANSPORTATION MAJORITY CHAIRMAN

14 TAYLOR: Anyone else?

15 Okay. To all our testifiers, thank
16 you very much. I think it was a productive
17 discussion for both the Transportation and the
18 Insurance Committee.

19 So, on behalf of Chairman Pickett and
20 DeLuca and Keller and myself, thank you.

21 And this hearing is adjourned.

22 (Whereupon, the hearing concluded at
23 12:50 p.m.)

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I HEREBY CERTIFY that the foregoing is a true and accurate transcript, to the best of my ability, produced from audio on the said proceedings.

BRENDA J. PARDUN, RPR
Court Reporter
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