

LEGISLATIVE JOURNAL

MONDAY, DECEMBER 11, 1989

SESSION OF 1989

173RD OF THE GENERAL ASSEMBLY

No. 70

SENATE

MONDAY, December 11, 1989.

The Senate met at 2:00 p.m., Eastern Standard Time.

The PRESIDENT (Lieutenant Governor Mark S. Singel) in the Chair.

PRAYER

The Chaplain, the Reverend Mr. TIMOTHY HOFFMAN, Pastor of Mt. Zion Evangelical Lutheran Church, Lewisberry, offered the following prayer:

Let us pray.

Creator God, we give You praise and thanks for this day and Your continued blessings. Be near us now to strengthen us in body, mind and spirit, that we may prove to be more enabled to serve You and the peoples we represent. Keep us mindful, Lord, that we do not own this world. The world always has been and will continue to be Yours. We are simply the trusted caretakers. So bless us now that we may prove to be Your good and faithful servants. Amen.

The PRESIDENT. The Chair thanks Reverend Hoffman who is back again this week with us at the kind invitation of Senator Wilt and Senator Hopper.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of December 6, 1989.

The Clerk proceeded to read the Journal of the preceding Session, when, on motion of Senator LOEPER, further reading was dispensed with, and the Journal was approved.

COMMUNICATIONS FROM THE GOVERNOR

NOMINATIONS BY THE GOVERNOR REFERRED TO COMMITTEE

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows, and referred to the Committee on Rules and Executive Nominations:

MEMBER OF THE STATE PLANNING BOARD

December 4, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Robert P. Argentine, 495 Mansfield Avenue, Pittsburgh 15205, Allegheny County, Forty-second Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until his successor is appointed and qualified, pursuant to Act 42, approved July 7, 1989.

ROBERT P. CASEY.

MEMBER OF THE STATE PLANNING BOARD

December 4, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Joann Bell, 8439 Suffolk Road, Philadelphia 19138, Philadelphia County, Eighth Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until her successor is appointed and qualified, pursuant to Act 42, approved July 7, 1989.

ROBERT P. CASEY.

MEMBER OF THE STATE PLANNING BOARD

December 4, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Robert J. Davis, 329 Charles Street, Throop 18512-1206, Lackawanna County, Twenty-second Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until his successor is appointed and qualified, pursuant to Act 42, approved July 7, 1989.

ROBERT P. CASEY.

MEMBER OF THE STATE PLANNING BOARD

December 4, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, David A. Dietrich, R. D. 2, Box 466, Mifflinburg 17844, Union County, Twenty-seventh Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until his successor is appointed and qualified, pursuant to Act 42, approved July 7, 1989.

ROBERT P. CASEY.

MEMBER OF THE STATE PLANNING BOARD

December 4, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Walter Giesey, 1217 North Third Street, Harrisburg 17102, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until his successor is appointed and qualified, pursuant to Act 42, approved July 7, 1989.

ROBERT P. CASEY.

MEMBER OF THE STATE PLANNING BOARD

December 4, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Bernard Hankin, 615 Bough Road, Exton 19341, Chester County, Nineteenth Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until his successor is appointed and qualified, pursuant to Act 42, approved July 7, 1989.

ROBERT P. CASEY.

MEMBER OF THE STATE PLANNING BOARD

December 4, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Eugene R. Hartzell, 3121 Hecktown Road, Bethlehem 18017, Northampton County, Eighteenth Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until his successor is appointed and qualified, pursuant to Act 42, approved July 7, 1989.

ROBERT P. CASEY.

MEMBER OF THE STATE PLANNING BOARD

December 4, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Joseph Joyce, 926 Main Street, Avoca 18641, Luzerne County, Fourteenth Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until his successor is appointed and qualified, pursuant to Act 42, approved July 7, 1989.

ROBERT P. CASEY.

MEMBER OF THE STATE PLANNING BOARD

December 4, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Judith M. Lynch, 803 Chelsea Street, Erie 16505, Erie County, Forty-ninth Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until her successor is appointed and qualified, pursuant to Act 42, approved July 7, 1989.

ROBERT P. CASEY.

MEMBER OF THE STATE PLANNING BOARD

December 4, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Maureen McCullough, Esquire, 317 Brookline Boulevard, Havertown 19083, Delaware County, Seventeenth Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until her successor is appointed and qualified, pursuant to Act 42, approved July 7, 1989.

ROBERT P. CASEY.

MEMBER OF THE STATE PLANNING BOARD

December 4, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, John P. Robin, 303 Dithridge House, 220 North Dithridge Street, Pittsburgh 15213, Allegheny County, Forty-third Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until his successor is appointed and qualified, pursuant to Act 42, approved July 7, 1989.

ROBERT P. CASEY.

MEMBER OF THE STATE PLANNING BOARD

December 4, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Harold A. Swenson, 1204 Executive House, 101 South Second Street, Harrisburg 17101, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until his successor is appointed and qualified, pursuant to Act 42, approved July 7, 1989.

ROBERT P. CASEY.

MEMBER OF THE STATE PLANNING BOARD

December 4, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Julius Uehlein, 233 Winding Way, Camp Hill 17011, Cumberland County, Thirty-first Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until his successor is appointed and qualified, pursuant to Act 42, approved July 7, 1989.

ROBERT P. CASEY.

MEMBER OF THE STATE PLANNING BOARD

December 4, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Clyde W. Waite, Esquire, 547 East Washington Avenue, Newtown 18940, Bucks County, Tenth Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until his successor is appointed and qualified, pursuant to Act 42, approved July 7, 1989.

ROBERT P. CASEY.

MEMBER OF THE STATE PLANNING BOARD

December 4, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, A. Elizabeth Watson, 900 Indiana Avenue, Lemoyne 17043, Cumberland County, Thirty-first Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until her successor is appointed and qualified, pursuant to Act 42, approved July 7, 1989.

ROBERT P. CASEY.

MEMBER OF THE STATE BOARD
OF CHIROPRACTIC

December 6, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Dr. Andrew W. Giran, 1415 Fallen Timber Road, Elizabeth 15037, Allegheny County, Forty-fifth Senatorial District, for appointment as a member of the State Board of Chiropractic, to serve for a term of four years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Louis P. Latimer, D.C., Carbondale, whose term expired.

ROBERT P. CASEY.

MEMBER OF THE STATE BOARD
OF CHIROPRACTIC

December 6, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Leonard J. Lenhart, D.C., 956 Mayfield Road, Sharpsville 16150, Mercer County, Fiftieth Senatorial District, for appointment as a member of the State Board of Chiropractic, to serve for a term of four years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Thomas R. Butler, D.C., Bellefonte, whose term expired.

ROBERT P. CASEY.

MEMBER OF THE PENNSYLVANIA
HUMAN RELATIONS COMMISSION

December 6, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Alvin E. Echols, Esquire, 1429 Dondill Place, Philadelphia 19122, Philadelphia County, Second Senatorial District, for reappointment as a member of the Pennsylvania Human Relations Commission, to serve until February 21, 1992, or until his successor is appointed and qualified.

ROBERT P. CASEY.

MEMBER OF THE PENNSYLVANIA
HUMAN RELATIONS COMMISSION

December 6, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Linda M. Weaver, 1401 Hillcrest Court, Johnstown 15905, Cambria County, Thirty-fifth Senatorial District, for appointment as a member of the Pennsylvania Human Relations Commission, to serve until February 21, 1994, or until her successor is appointed and qualified, vice Thomas L. McGill, Jr., Esquire, Philadelphia, whose term expired.

ROBERT P. CASEY.

MEMBER OF THE MUNICIPAL POLICE
OFFICERS' EDUCATION AND
TRAINING COMMISSION

December 6, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, William R. Collins, 10 Carriage Road, New Cumberland 17070, York County, Thirty-first Senatorial District, for appointment as a member of the Municipal Police Officers' Education and Training Commission, to serve until February 21, 1991, and until his successor is appointed and qualified, vice Edward F. Wunsch, Sr., Feasterville, whose term expired.

ROBERT P. CASEY.

MEMBER OF THE STATE BOARD
OF PHYSICAL THERAPY

December 8, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Michael L. Murphy, 226 Cornell Road, Clarks Green 18411, Lackawanna County, Twenty-second Senatorial District, for reappointment as a member of the State Board of Physical Therapy, to serve for a term of four years and until his successor is appointed and qualified, but not longer than six months beyond that period.

ROBERT P. CASEY.

RECALL COMMUNICATION REFERRED TO COMMITTEE

The PRESIDENT laid before the Senate the following communication in writing from His Excellency, the Governor of the Commonwealth, which was read as follows, and referred to the Committee on Rules and Executive Nominations:

MEMBER OF THE BOARD OF TRUSTEES OF HARRISBURG STATE HOSPITAL

December 6, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated August 9, 1989, for the appointment of V. Elaine Gallaspy Hagenbuch, R. D. 2, Box 71-2, Duncannon 17020, Perry County, Thirty-third Senatorial District, as a member of the Board of Trustees of Harrisburg State Hospital, to serve until the third Tuesday of January, 1991, and until her successor is appointed and qualified, vice Charles A. Rausch, Esquire, York, resigned.

I respectfully request the return to me of the official message of nomination on the premises.

ROBERT P. CASEY.

HOUSE MESSAGES

HOUSE BILLS FOR CONCURRENCE

The Clerk of the House of Representatives presented to the Senate the following bills for concurrence, which were referred to the committees indicated:

December 7, 1989

HB 971 — Committee on Consumer Protection and Professional Licensure.

HB 1631 — Committee on Finance.

HB 1781 and **1903** — Committee on Judiciary.

HB 1890 — Committee on Transportation.

December 11, 1989

HB 1058 and **1555** — Committee on Judiciary.

HOUSE RESOLUTION FOR CONCURRENCE

The Clerk of the House of Representatives presented to the Senate the following resolution for concurrence, which was referred to the committee indicated:

December 11, 1989

House Concurrent Resolution No. 232 — Committee on Intergovernmental Affairs.

BILLS INTRODUCED AND REFERRED

The PRESIDENT laid before the Senate the following Senate Bills numbered, entitled and referred as follows, which were read by the Clerk:

December 7, 1989

Senators MELLOW, LINCOLN, BODACK, O'PAKE, STAPLETON, ROSS, FUMO, MUSTO, SCANLON, REIBMAN, JONES, PORTERFIELD, SHAFFER, AFFLERBACH, LYNCH and HELFRICK presented to the Chair **SB 1386**, entitled:

An Act providing for a capital project for the acquisition and installation of modular units for the Department of Corrections; providing for the issuance of bonds; and making an appropriation.

Which was committed to the Committee on APPROPRIATIONS, December 7, 1989.

Senators MELLOW, LINCOLN, BODACK, O'PAKE, STAPLETON, ROSS, FUMO, MUSTO, SCANLON, REIBMAN, JONES, PORTERFIELD, SHAFFER, LYNCH and HELFRICK presented to the Chair **SB 1387**, entitled:

An Act authorizing the Department of General Services to enter into lease/purchase agreements for prison space; authorizing capital budget projects; providing for the issuance of bonds; and making an appropriation.

Which was committed to the Committee on APPROPRIATIONS, December 7, 1989.

Senators MELLOW, LINCOLN, BODACK, O'PAKE, STAPLETON, ROSS, FUMO, MUSTO, SCANLON, REIBMAN, JONES, PORTERFIELD, SHAFFER, LYNCH and HELFRICK presented to the Chair **SB 1388**, entitled:

An Act providing for a capital project for the construction of a new prison; providing for the issuance of bonds; and making an appropriation.

Which was committed to the Committee on APPROPRIATIONS, December 7, 1989.

Senators BRIGHTBILL, SALVATORE, BELL, REIBMAN, O'PAKE, GREENWOOD and HELFRICK presented to the Chair **SB 1389**, entitled:

An Act amending the act of October 20, 1966 (3rd Sp. Sess., P. L. 96, No. 6), entitled "Mental Health and Mental Retardation Act of 1966," repealing provisions relating to county liability; and discharging certain county liability.

Which was committed to the Committee on PUBLIC HEALTH AND WELFARE, December 7, 1989.

Senators RHOADES, SHUMAKER, HELFRICK and SALVATORE presented to the Chair **SB 1390**, entitled:

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), entitled "The Administrative Code of 1929," further providing for the granting of financial assistance by the Energy Development Authority.

Which was committed to the Committee on ENVIRONMENTAL RESOURCES AND ENERGY, December 7, 1989.

December 11, 1989

Senators RHOADES, SHUMAKER, HELFRICK and SALVATORE presented to the Chair **SB 1391**, entitled:

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), entitled "The Administrative Code of 1929," further providing for Energy Development Authority.

Which was committed to the Committee on ENVIRONMENTAL RESOURCES AND ENERGY, December 11, 1989.

Senator ANDREZESKI presented to the Chair **SB 1392**, entitled:

An Act amending the act of July 2, 1984 (P. L. 561, No. 112), entitled "Pennsylvania Conservation Corps Act," further providing for work experience projects.

Which was committed to the Committee on ENVIRONMENTAL RESOURCES AND ENERGY, December 11, 1989.

Senator ANDREZESKI presented to the Chair **SB 1393**, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971," providing for an exclusion from the sales tax for certain erosion control along the Lake Erie shoreline.

Which was committed to the Committee on FINANCE, December 11, 1989.

Senators BRIGHTBILL, REIBMAN, SHUMAKER, REGOLI, SALVATORE and HELFRICK presented to the Chair **SB 1394**, entitled:

An Act amending Title 72 (Taxation and Fiscal Affairs) of the Pennsylvania Consolidated Statutes, providing for alternate valuation of property for inheritance tax purposes.

Which was committed to the Committee on FINANCE, December 11, 1989.

Senators SHAFFER, MUSTO, FISHER, PECORA, GREENWOOD, SHUMAKER, PORTERFIELD, REIBMAN, REGOLI, STOUT, WILT, WENGER, CORMAN, ROSS, HELFRICK, O'PAKE and AFFLERBACH presented to the Chair **SB 1395**, entitled:

An Act amending the act of June 2, 1915 (P. L. 736, No. 338), entitled "The Pennsylvania Workmen's Compensation Act," providing that volunteer members of hazardous materials response teams be considered employees of the Commonwealth for compensation purposes.

Which was committed to the Committee on LABOR AND INDUSTRY, December 11, 1989.

RESOLUTIONS INTRODUCED AND REFERRED

The PRESIDENT laid before the Senate the following Senate Resolutions numbered, entitled and referred as follows, which were read by the Clerk:

December 11, 1989

URGING THE GOVERNOR TO ESTABLISH AN ECONOMIC PARTNERSHIP AND A TRADE MISSION WITH POLAND, IN PARTICULAR, AND EASTERN EUROPE, IN GENERAL, IN LIGHT OF THE CHANGING POLITICAL AND ECONOMIC CONDITIONS IN THE SOVIET BLOC

Senators SHUMAKER, DAWIDA, BODACK, SALVATORE, ANDREZESKI, O'PAKE, ROCKS, SCANLON, BELL, RHOADES, GREENWOOD, LEMMOND, ARMSTRONG, HELFRICK, PUNT, REIBMAN, MADIGAN, HOLL, BAKER, BRIGHTBILL, PETERSON, JUBELIRER, PECORA, STEWART, FATTAH, PORTERFIELD, AFFLERBACH, LOEPER, LINCOLN, JONES, BELAN, FUMO, MELLOW, LEWIS, WILLIAMS, MUSTO, REGOLI, GREENLEAF, WENGER and SHAFFER offered the following resolution (**Senate Resolution No. 122**), which was read and referred to the Committee on Intergovernmental Affairs:

In the Senate, December 11, 1989.

A RESOLUTION

Urging the Governor to establish an economic partnership and a trade mission with Poland, in particular, and Eastern Europe, in general, in light of the changing political and economic conditions in the Soviet bloc.

WHEREAS, Changing political and economic conditions in the Soviet bloc of nations provide opportunities which may be mutually beneficial to those nations and this Commonwealth; therefore be it

RESOLVED, That the Senate of Pennsylvania urge the Governor to take steps to establish an economic partnership with Poland, in particular, and the other nations of Eastern Europe; and be it further

RESOLVED, That the Senate urge the Governor to establish a trade mission which would develop business ties between Pennsylvania business, civic and political leaders and Poland business, civic and political leaders. The goal thereof shall be to have 50 Pennsylvania companies participating for the purpose of economic development. The Senate further urges that the General Assembly appropriate the one-time sum of \$250,000 for this purpose.

MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO PROTECT THE ENVIRONMENTAL AND ECONOMIC INTERESTS OF THE PEOPLE OF PENNSYLVANIA DURING CONSIDERATION OF ACID RAIN LEGISLATION

Senators RHOADES, BELAN, SHUMAKER, STOUT, STAPLETON, PORTERFIELD, O'PAKE, ANDREZESKI, FISHER, REGOLI, LINCOLN, LEMMOND, MELLOW and MUSTO offered the following resolution (**Senate Concurrent Resolution No. 123**), which was read and referred to the Committee on Intergovernmental Affairs:

In the Senate, December 11, 1989.

A CONCURRENT RESOLUTION

Memorializing the Congress of the United States to protect the environmental and economic interests of the people of Pennsylvania during consideration of acid rain legislation.

WHEREAS, The Commonwealth of Pennsylvania is a recipient of acid rain precipitation as well as a contributor to acid rain precursors; and

WHEREAS, The Commonwealth's current emission standards and enforcement strategies have resulted in a 23% reduction in total SO₂ emissions since 1980, making Pennsylvania's average rate of emissions the lowest of all major coal-burning states; and

WHEREAS, Emission reduction efforts have cost Pennsylvania's electric ratepayers nearly \$3 billion in capital investments and almost \$500 million in annual operating costs; and

WHEREAS, Prevailing westerly winds and a high level of untreated sulfur dioxide emissions from other states cause the Commonwealth to receive pollution over which it has no extrajurisdictional control; and

WHEREAS, Clean Air legislation is pending at the State and Federal Government levels, but only a Federal approach can address the interstate causes and effects of acid rain and attempt to fairly distribute the cost of mitigating those causes and effects; and

WHEREAS, Legislation currently being considered in the United States Congress includes provisions that could have a deleterious effect upon Pennsylvania's environment, its vital coal industry and its citizens who are customers of coal-burning utilities that provide 74% of the Commonwealth's electricity; therefore be it

RESOLVED (the House of Representatives concurring), That the Congress of the United States be memorialized to ensure:

(1) That the interests of the people of Pennsylvania in clean air and water are protected during consideration of acid rain legislation;

(2) That acid rain legislation be carefully evaluated to ensure that its provisions are not inimical to the interests of the people of Pennsylvania and the coal industry;

(3) That the Pennsylvania ratepayers not be required to assume more of a financial burden for emission reductions unless and until upwind states have reduced their emissions to levels comparable to those already achieved by the Commonwealth;

(4) That Pennsylvania's coal industry be preserved, and the nation's interest in clean air and energy security be advanced by greater promotion and application of the most effective clean coal technologies; and

(5) That states play a prominent role in air quality programs authorized by the Federal Government; and be it further

RESOLVED, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

GENERAL COMMUNICATIONS

JOB TRAINING PARTNERSHIP ACT PLAN

The PRESIDENT laid before the Senate the following communication, which was read by the Clerk as follows:

MONROE COUNTY
JOB TRAINING PARTNERSHIP ACT
Monroe County Courthouse
Stroudsburg, PA 18360

November 29, 1989

Honorable Robert C. Jubelirer
President Pro Tempore
Senate of Pennsylvania
Main Capitol Building
Harrisburg, PA 17120

Dear Sir:

Enclosed please find a copy of the public notice for the submission of the Pocono Counties S.D.A. #15 Master Plan for Program Years 1990 and 1991.

If we can provide any additional information please feel free to contact our office at your convenience.

Sincerely,

JOHN A. CASELLA
Director

The PRESIDENT. This report will be filed in the Library.

**DEPARTMENT OF LABOR AND INDUSTRY
PENNSYLVANIA'S EMPLOYMENT
AND TRAINING PLAN
PROGRAM YEAR 1989 UPDATE**

The PRESIDENT laid before the Senate the following communication, which was read by the Clerk as follows:

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF LABOR AND INDUSTRY
Harrisburg, Pennsylvania 17120

November 30, 1989

Mr. Mark R. Corrigan, Secretary
Senate of Pennsylvania
Senate Post Office
Main Capitol
Harrisburg, PA 17120

Dear Mr. Corrigan:

The attached document modifies Pennsylvania's Employment and Training Plan for the two-year period July 1, 1988, to June 30, 1990, to include the most recent employment activities occurring in the Commonwealth. The more noteworthy changes address the Summer Youth Service Corps and Training Plus initiatives, and the implementation of the Economic Dislocation and Worker Adjustment Assistance Act. The page numbering of the modification is consistent with the original plan for ease of review and comparison with the original plan previously provided.

Any questions, comments or suggestions may be directed to Ruth Ann Van Dyke, Director, Bureau of Job Training Partnership at (717) 783-8944.

Sincerely,

FRANKLIN G. MONT
Deputy Secretary for
Employment Security and
Job Training

The PRESIDENT. This report will be filed in the Library.

**THE PENNSYLVANIA STATE UNIVERSITY
AUDITED FINANCIAL STATEMENTS**

The PRESIDENT laid before the Senate the following communication, which was read by the Clerk as follows:

THE PENNSYLVANIA STATE UNIVERSITY
408 Old Main
University Park, Pennsylvania 16802

November 30, 1989

Mr. Mark R. Corrigan
Secretary
Senate of Pennsylvania
Room 462
Main Capitol Building
Harrisburg, PA 17120

Dear Sir:

Enclosed is a copy of the University's Audited Financial Statements for the year ended June 30, 1989.

Very truly yours,
KENNETH S. BABE
Corporate Controller

The PRESIDENT. This report will be filed in the Library.

APPOINTMENT BY PRESIDENT PRO TEMPORE

The PRESIDENT. The Chair wishes to announce the President pro tempore has made the following appointment:

Mr. Charles H. Roberts as a member of the State Transportation Advisory Committee.

BILLS SIGNED

The PRESIDENT (Lieutenant Governor Mark S. Singel) in the presence of the Senate signed the following bills:

HB 837, 838 and 839.

REPORTS FROM COMMITTEE

Senator TILGHMAN, from the Committee on Appropriations, reported the following bills:

HB 540 (Pr. No. 771) (Rereported)

An Act amending the act of December 3, 1959 (P. L. 1688, No. 621), known as the "Housing Finance Agency Law," continuing the Homeowner's Emergency Assistance program of the Pennsylvania Housing Finance Agency.

HB 1285 (Pr. No. 2830) (Rereported)

An Act providing for the registration and reporting of certain noncontrolled substances; imposing additional powers and duties on the Secretary of Health; and fixing penalties.

HB 1435 (Pr. No. 2855) (Rereported)

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), known as the "Tax Reform Code of 1971," further defining the terms "employee" and "employer" for personal income tax purposes; further providing for estimated tax; codifying provisions imposing a State tax, payable by manufacturers and by others, on malt or brewed beverages used, sold, transported, or delivered within the Commonwealth; prescribing the method and manner of evidencing the payment and collection of such tax; conferring additional powers and imposing additional duties on the Department of Revenue, and those using or engaged in the sale, at retail or wholesale, or in the transportation of malt or brewed beverages; providing penalties; and making a repeal.

LEGISLATIVE LEAVES

Senator BRIGHTBILL. Mr. President, I would ask for legislative leaves for Senator Pecora and Senator Wilt and temporary legislative leave for Senator Lemmond.

Senator MELLOW. Mr. President, I request temporary Capitol leaves for Senator Regoli, Senator Stout and Senator Williams and legislative leave for Senator Ross.

The PRESIDENT. Senator Brightbill requests legislative leaves for Senator Pecora, Senator Wilt and Senator Lemmond. Senator Mellow requests temporary Capitol leaves for Senator Regoli, Senator Stout and Senator Williams and a legislative leave for Senator Ross. The Chair hears no objection. Those leaves will be granted.

LEAVES OF ABSENCE

Senator BRIGHTBILL asked and obtained leaves of absence for Senator CORMAN and Senator MADIGAN, for today's Session, for personal reasons.

Senator MELLOW asked and obtained leave of absence for Senator AFFLERBACH, for today's Session, for personal reasons.

SENATE CONCURRENT RESOLUTION

RECESS ADJOURNMENT

Senator LOEPER offered the following resolution, which was read as follows:

In the Senate, December 11, 1989.

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week it reconvene on Tuesday, January 2, 1990, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, That when the House of Representatives adjourns this week it reconvene on Tuesday, January 2, 1990, unless sooner recalled by the Speaker of the House of Representatives.

Senator LOEPER asked and obtained unanimous consent for the immediate consideration of this resolution.

On the question,
Will the Senate adopt the resolution?

SENATE CONCURRENT RESOLUTION ADOPTED

Senator LOEPER. Mr. President, I move that the Senate do adopt this resolution.

On the question,
Will the Senate agree to the motion?

The yeas and nays were required by Senator LOEPER and were as follows, viz:

YEAS—47

Andrezeski	Greenwood	Mellow	Salvatore
Armstrong	Helfrick	Musto	Scanlon
Baker	Hess	O'Pake	Shaffer
Belan	Holl	Pecora	Shumaker
Bell	Hopper	Peterson	Stapleton
Bodack	Jones	Porterfield	Stewart
Brightbill	Jubelirer	Punt	Stout

Dawida	Lemmond	Regoli	Tilghman
Fattah	Lewis	Reibman	Wenger
Fisher	Lincoln	Rhoades	Williams
Fumo	Loeper	Rocks	Wilt
Greenleaf	Lynch	Ross	

NAYS—0

A majority of the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present the same to the House of Representatives for concurrence.

SPECIAL ORDER OF BUSINESS

PIAA CLASS AA STATE CHAMPIONSHIP SOCCER TEAM PRESENTED TO SENATE

Senator BAKER. Mr. President, I am extremely proud to introduce to you today from Chester County the members of the Great Valley High School Boys Soccer Team and their Head Coach, Mr. Robert Kulp. They were the first team to win successive championships at the Middleburg Soccer Tournament. They retained the PAC-10 Championship for the second consecutive year, and they captured their first ever PIAA State Championship at Shippensburg University. I am particularly proud that on the team is the son of Representative Bob Flick, who accompanies the members of that team here today. I now ask the Senate to join me in congratulating the Great Valley High School Boys Soccer Team, their Coach, Bob Kulp, and the staff, whose teamwork and dedication resulted in their impressive 1989 championship season.

The PRESIDENT. Would the championship soccer team of Great Valley and the guests of Senator Baker please rise so we can welcome you to the Senate of Pennsylvania.

(Applause.)

The PRESIDENT. The Chair also recognizes and welcomes Representative Bob Flick, who accompanies the team.

MODERN MISS PENNSYLVANIA TEEN PRESENTED TO SENATE

Senator HELFRICK. Mr. President, I have the honor today to introduce to the Senate a lovely young lady from Berwick, Pennsylvania. Her name is Amy Andrezze. She is the Modern Miss Pennsylvania Teen of 1989. She is accompanied by her mother, her grandmother and Sister Barbara Sable, a teacher from the Berwick area. I would appreciate it if we would give her our usual warm welcome.

The PRESIDENT. Would Modern Miss Pennsylvania Teen and her family and the guest of Senator Helfrick please rise so we could welcome you to the Pennsylvania Senate.

(Applause.)

CALENDAR

HB 1633 CALLED UP OUT OF ORDER

HB 1633 (Pr. No. 2714) — Without objection, the bill was called up out of order, from page 9 of the Second Consider-

ation Calendar, by Senator LOEPER, as a Special Order of Business.

BILL ON SECOND CONSIDERATION AND REREFERRED

HB 1633 (Pr. No. 2714) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for periodic review of support guidelines; providing for genetic tests in relation to paternity disputes; providing for mandatory attachment of income in orders of support; and providing for a periodic review of support orders.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator LOEPER, and agreed to, the bill just considered was rereferred to the Committee on Appropriations.

SPECIAL ORDER OF BUSINESS

ANNOUNCEMENTS BY THE SECRETARY

The SECRETARY. The Majority and Minority Leaders have given their permission for the Committee on Appropriations to meet during today's Session to consider House Bill No. 1633 and have also approved a meeting of the Committee on Transportation to take place during today's Session to consider House Bill No. 1890.

RECESS

Senator LOEPER. Mr. President, at this time I would ask for a recess of the Senate, first, for a meeting of the Committee on Appropriations to be held in the Rules room at the rear of the Senate Chamber, to be followed by the recessed meeting of the Committee on Transportation and then a Republican caucus to be held in the first floor caucus room beginning in approximately ten minutes, if we could schedule the caucus to begin at 3:25 p.m. It would be my expectation that we would not return to the floor until probably 5:30 p.m. or 5:45 p.m.

Senator MELLOW. Mr. President, I would also request, upon the completion of the committee meetings that Senator Loeper has just announced, that the Democrat Members of our caucus meet immediately upon conclusion of the last committee meeting.

The PRESIDENT. For purposes of the aforementioned meetings to be followed by Republican and Democratic caucuses, the Senate will stand in recess.

AFTER RECESS

The PRESIDENT. The time of recess having elapsed, the Senate will be in order.

CONSIDERATION OF CALENDAR RESUMED**REPORT OF COMMITTEE OF CONFERENCE****REPORT ADOPTED**

HB 53 (Pr. No. 2790) — The Senate proceeded to consideration of the bill, entitled:

An Act authorizing and directing the Department of General Services, with the approval of the Governor and the Chancellor of the State System of Higher Education, to convey to Pocono Medical Center a certain tract of land situate in the Borough of East Stroudsburg, Monroe County, in exchange for a certain monetary consideration and a certain tract of land; and authorizing the Department of General Services, with the approval of the Department of Environmental Resources, to supplement and amend a lease between the Commonwealth and the City of Philadelphia, authorized pursuant to the act of December 9, 1980 (P. L. 1133, No. 201), subject to certain conditions, in the fifth ward of the City of Philadelphia.

Senator LOEPER. Mr. President, I move the Senate adopt the Report of Committee of Conference on House Bill No. 53.

On the question,

Will the Senate agree to the motion?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—48

Andrezski	Greenwood	Madigan	Ross
Armstrong	Helfrick	Mellow	Salvatore
Baker	Hess	Musto	Scanlon
Belan	Holl	O'Pake	Shaffer
Bell	Hopper	Pecora	Shumaker
Bodack	Jones	Peterson	Stapleton
Brightbill	Jubelirer	Porterfield	Stewart
Dawida	Lemmond	Punt	Stout
Fattah	Lewis	Regoli	Tilghman
Fisher	Lincoln	Reibman	Wenger
Fumo	Loeper	Rhoades	Williams
Greenleaf	Lynch	Rocks	Wilt

NAYS—0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate inform the House of Representatives accordingly.

LEAVES CANCELLED

The PRESIDENT. The Chair recognizes the presence on the floor of Senator Stout, Senator Williams, Senator Regoli and Senator Lemmond. Their temporary Capitol leaves will be cancelled. Also, Senator Madigan is with us, as well. His personal leave will be cancelled.

CONSIDERATION OF CALENDAR RESUMED**BILL ON CONCURRENCE IN
HOUSE AMENDMENTS****BILL OVER IN ORDER**

SB 484 — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

FINAL PASSAGE CALENDAR**BILL OVER IN ORDER**

SB 594 — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

THIRD CONSIDERATION CALENDAR**BILL REREPORTED FROM COMMITTEE
AS AMENDED OVER IN ORDER**

HB 689 — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

**PREFERRED APPROPRIATION BILLS
OVER IN ORDER**

SB 1222, 1223 and 1224 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILLS ON THIRD CONSIDERATION AMENDED

SB 183 (Pr. No. 183) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of February 1, 1966 (1965 P. L. 1656, No. 581) entitled "The Borough Code," further providing for tax levy.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

Senator GREENLEAF, by unanimous consent, offered the following amendment No. A4039:

Amend Sec. 1, page 1, line 7, by striking out "(8) and (9)"

Amend Sec. 1, page 1, lines 8 and 9, by striking out "are" in line 8, all of line 9 and inserting: amended May 10, 1974 (P.L.293, No.91), July 16, 1975 (P.L.74, No.44), December 2, 1976 ((P.L.1236, No.274) and May 22, 1981 (P.L.72, No.21), is amended to read:

Amend Sec. 1 (Sec. 1302), page 1, line 10, by inserting before "The": (a)

Amend Sec. 1 (Sec. 1302), page 1, line 18, by striking out all of said line and inserting:

(1) An annual tax sufficient to pay interest and principal on any indebtedness incurred pursuant to the act of July 12, 1972 (P.L.781, No.185), known as the "Local Government Unit Debt Act," or any prior or subsequent act governing the incurrence of indebtedness of the borough;

(2) To provide for pensions, retirement or the purchase of annuity contracts for borough employes, not exceeding one-half mill;

(3) To defray the cost and expenses of caring for shade trees as provided in section 2729 of this act, and the expense of publishing the notice referred to in such section, not exceeding one-tenth mill;

(4) For lighting and illuminating the streets, highways and other public places with electric light, gas light or other illuminant, not exceeding eight mills;

(5) For gas, water and electric light, not exceeding eight mills, such additional millage permitted only following a favorable referendum on the matter held in accordance with the act of April 16, 1875 (P.L.55), as amended;

(6) For the purchase of fire engines, fire apparatus and fire hose for the use of the borough, or for assisting any fire company in the borough in the purchase, renewal or repair of any of its fire engines, fire apparatus or fire hose, for the purposes of making appropriations to fire companies both within and without the borough and of contracting with adjacent municipalities or volunteer fire companies therein for fire protection, or for the purchase of land upon which to erect a fire house, or for the erection and maintenance of a fire house or fire houses, not exceeding three mills. If an annual tax for the purposes specified in this clause is proposed to be set at a level higher than three mills, the question shall be submitted to the voters of the borough, and the county board of elections shall frame the question in accordance with the election laws of the Commonwealth for submission to the voters of the borough;

(7) For building a fire house, lockup and/or municipal building, not exceeding two mills, such additional millage permitted only following a favorable referendum on the matter held in accordance with the act of May 4, 1927 (P.L.673);

Amend Sec. 1 (Sec. 1302), page 2, line 16, by striking out all of said line and inserting:

(b) For the tax year for which the borough first levies a tax under clauses (10), (11) or (12), the borough shall reduce the millage rate of the general property tax it levies under subsection (a) by the same number of mills as it levies the tax under clauses (10), (11) or (12). Thereafter, for any tax year for which the borough increases the millage rate of a tax it levies under clauses (10), (11) or (12), the borough shall reduce the millage rate of the general property tax it levies under subsection (a) by the same number of mills as it increases the tax rate under clauses (10), (11) or (12).

(c) The said taxes shall be levied on the dollar on the valuation assessed for county purposes, as now is or may be provided by law. All real property, offices, professions and persons, made taxable by the laws of this Commonwealth for county rates and levies, may, in the discretion of council, be taxed after the same manner for such purposes. No action on the part of the borough authorities fixing the tax rate for any year at a mill rate need include a statement expressing the rate of taxation in dollars and cents on each one hundred dollars (\$100) of assessed valuation of taxable property.

(d) Nothing herein contained shall prevent the application of moneys received from taxes levied for general purposes to the purposes of paying interest and sinking fund charges on indebtedness.

(e) The proceeds of all taxes for which additional millage is hereby authorized shall be kept in a separate fund and used only for the purposes hereby provided therefor: Provided, That the additional taxes authorized by referendum shall continue to be levied annually for so long a period as provided in the question submitted in such referendum, and, in the case of any such taxes for which the question voted upon shall not have stated the duration of such tax, until such tax shall be abolished by vote of the electors in a subsequent referendum.

On the question,

Will the Senate agree to the amendment?

Senator MELLOW. Mr. President, I desire to interrogate the gentleman from Montgomery, Senator Greenleaf.

The PRESIDENT. Will the gentleman from Montgomery, Senator Greenleaf, permit himself to be interrogated?

Senator GREENLEAF. I will, Mr. President.

Senator MELLOW. Mr. President, there was some discussion in our caucus today about the amendments and I believe that, basically, the amendment will be offered for the next three bills, the same amendment. Would Senator Greenleaf explain to the Senate what the amendments are and the reasons for the amendments?

Senator GREENLEAF. Mr. President, the reason for the amendment is that I wanted to insure that there was no wind-fall to the municipality and no corresponding reduction in taxes in the general fund taxes that were previously covered by the provisions in the Senate bills that would permit a special levy or for additional taxes for trash removal, liability insurance and police support services.

Senator MELLOW. Mr. President, the way I read the amendment, if a municipality goes ahead and does implement the additional 5 mills to take care of the trash or the police protection or what have you in the proposal, must they then reduce their general fund by that same 5 mills?

Senator GREENLEAF. Yes, Mr. President.

Senator MELLOW. Mr. President, is that only for the first year, or is that for the life of the additional 5 mills appearing on the budget?

Senator GREENLEAF. Mr. President, it is for the life of the 5-mill levy.

Senator MELLOW. Mr. President, then, for a point of clarification, on page 2 of the amendment, subparagraph (b), it says, "For the tax year for which the borough first levies a tax under...the borough shall reduce the millage rate of the general property tax it levies under subsection (a) by the same number of mills as it levies the tax under clauses (10), (11) or (12)." My reading of that, Mr. President, would mean that the municipality, the borough, would only have to reduce the millage that it first levies in that first year, and then after that could go ahead and could put that millage back on. Is that an incorrect reading of the amendment?

Senator GREENLEAF. Mr. President, if the gentleman was reading from the amendment, I am sorry I did not catch where he was reading. If he was reading from the amendment, the second sentence goes on to say that thereafter any increases in the millage rates based on sections (10), (11) and (12), would have to receive a corresponding reduction in the general property tax levy.

Senator MELLOW. Mr. President, could the gentleman tell us if that means any increases beyond the initial increase from the first levy, or does it mean any new increases? There seems to be some confusion as to exactly what is trying to be accomplished in the amendment.

Senator GREENLEAF. Mr. President, it applies to any increases earmarked for any of the three purposes mentioned in the legislation, and there would have to be a corresponding reduction in the general tax levies for every mill increased under the special tax levy provisions of the bill at any time for the first year, second year, third year, or whatever year they implement it.

Senator MELLOW. Mr. President, a hypothetical situation for the point of clarification: If a borough is at 30 mills which, in fact, may be their maximum as far as their general operating budget, their general property tax, and they institute a 5 mill tax for the purpose of police protection or garbage collection, must they then, in that same year, reduce their general property tax by that 5 mills?

Senator GREENLEAF. Yes, Mr. President, under the amendment.

Senator MELLOW. Mr. President, then can the gentleman tell us when that particular municipality could go ahead and increase the millage, which now would be at 25 mills, back up to 30 mills or to 26 mills or to 27 mills?

Senator GREENLEAF. I am sorry, Mr. President. At any time, as long as it is not allocated for the three major areas we are dealing with. If the gentleman is asking me about expenditures other than the three—police protection, liability insurance and trash removal—then they would be free to increase their general millage levies at any time, but they would not be able to allocate any of the new millage for police, liability or trash removal.

Senator MELLOW. Mr. President, I am really now becoming confused. Then is Senator Greenleaf telling us, if they implemented a 5 mill tax increase for garbage collection, they still could maintain the same millage that they have for their general property tax for the general operation of their budget?

Senator GREENLEAF. No, Mr. President, they would have to reduce their millage correspondingly to the amount that they increased under the special tax levy for any of those three items.

Senator MELLOW. Then, Mr. President, we would be looking at a neutral position with regard to revenues, except that you would be earmarking a certain percentage of that millage to be used for garbage collection. Is that correct?

Senator GREENLEAF. Yes, Mr. President, generally that would be correct other than the fact, though, that they would be permitted to use their general fund levies less these three items for other matters.

Senator MELLOW. Mr. President, the way we read it is the net result would be the same. If they are at 30 mills prior to the enactment of this amendment and this bill was passed and they went ahead and set aside 5 mills for trash collection, they then would have to reduce their general property tax by that same 5 mills, and it would be a revenue neutral proposal. Therefore, Mr. President, I would ask for a negative vote on the amendment.

Senator STEWART. Mr. President, I would also urge a negative vote. The three bills, this one and the two following, were designed, by reading the bills, to help local municipalities out with a need, and that is increased liability insurance, police and fire protection and garbage collection. The need is now, otherwise the bills would not have been introduced. I believe the amendments simply put off what the bills can do now for one more year. I would urge a negative vote on the amendments to each of these and an affirmative vote on the bill.

And the question recurring,
Will the Senate agree to the amendment?

(During the calling of the roll, the following occurred:)

Senator FATTAH. Mr. President, I would like to change my vote from "aye" to "no."

The PRESIDENT. The gentleman will be so recorded.

The yeas and nays were required by Senator GREENLEAF and were as follows, viz:

YEAS—28

Armstrong	Helfrick	Madigan	Rocks
Baker	Hess	O'Pake	Salvatore
Bell	Holl	Pecora	Shaffer
Brightbill	Hopper	Peterson	Shumaker
Fisher	Jubelirer	Punt	Tilghman
Greenleaf	Lemmond	Reibman	Wenger
Greenwood	Loeper	Rhoades	Wilt

NAYS—20

Andrezeski	Fumo	Mellow	Scanlon
Belan	Jones	Musto	Stapleton
Bodack	Lewis	Porterfield	Stewart
Dawida	Lincoln	Regoli	Stout
Fattah	Lynch	Ross	Williams

A majority of the Senators having voted "aye," the question was determined in the affirmative.

The PRESIDENT. Senate Bill No. 183 will go over in its order, as amended.

SB 184 (Pr. No. 184) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 24, 1931 (P. L. 1206, No. 331), entitled "The First Class Township Code," further providing for tax levies.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

Senator GREENLEAF, by unanimous consent, offered the following amendment No. A4040:

Amend Sec. 1 (Sec. 1709), page 1, line 13, by inserting after "Levies.—": (a)

Amend Sec. 1 (Sec. 1709), page 4, by inserting between lines 5 and 6:

(b) For the tax year for which the township first levies a tax under subsection (a) clause eight, nine or ten, the township shall reduce the millage rate of the general property tax it levies under subsection (a) clause one by the same number of mills as it levies the tax under subsection (a) clause eight, nine or ten. Thereafter, for any tax year for which the township increases the millage rate of a tax it levies under subsection (a) clause eight, nine or ten, the township shall reduce the millage rate of the general property tax it levies under subsection (a) clause one by the same number of mills as it increases the tax rate under subsection (a) clause eight, nine or ten.

On the question,

Will the Senate agree to the amendment?

LEGISLATIVE LEAVE

Senator LINCOLN. Mr. President, I would request a temporary Capitol leave for Senator Lewis.

The PRESIDENT. Senator Lincoln requests temporary Capitol leave for Senator Lewis. The Chair hears no objection. The leave will be granted.

And the question recurring,
Will the Senate agree to the amendment?

The yeas and nays were required by Senator GREENLEAF and were as follows, viz:

YEAS—28

Armstrong	Helfrick	Madigan	Rocks
Baker	Hess	O'Pake	Salvatore
Bell	Holl	Pecora	Shaffer
Brightbill	Hopper	Peterson	Shumaker
Fisher	Jubelirer	Punt	Tilghman
Greenleaf	Lemmond	Reibman	Wenger
Greenwood	Loeper	Rhoades	Wilt

NAYS—20

Andrezeski	Fumo	Mellow	Scanlon
Belan	Jones	Musto	Stapleton
Bodack	Lewis	Porterfield	Stewart
Dawida	Lincoln	Regoli	Stout
Fattah	Lynch	Ross	Williams

A majority of the Senators having voted "aye," the question was determined in the affirmative.

The PRESIDENT. Senate Bill No. 184 will go over in its order, as amended.

SB 185 (Pr. No. 185) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 1, 1933 (P. L. 103, No. 69), entitled "The Second Class Township Code," further providing for township tax levies.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

Senator GREENLEAF, by unanimous consent, offered the following amendment No. A4042:

Amend Sec. 1, page 1, line 10, by inserting after "clauses": and the section is amended by adding a subsection

Amend Sec. 1 (Sec. 905), page 2, by inserting between lines 6 and 7:

A.1. For the tax year for which the township first levies a tax under clause 9, 10 or 11 of subsection A, the township shall reduce the millage rate of the general property tax it levies under clause 1 of subsection A by the same number of mills as it levies the tax under clause 9, 10 or 11 of subsection A. Thereafter, for any tax year for which the township increases the millage rate of a tax it levies under clause 9, 10 or 11 of subsection A, the township shall reduce the millage rate of the general property tax it levies under clause 1 of subsection A by the same number of mills as it increases the tax rate under clause 9, 10 or 11 of subsection A.

On the question,

Will the Senate agree to the amendment?

The yeas and nays were required by Senator GREENLEAF and were as follows, viz:

YEAS—28

Armstrong	Helfrick	Madigan	Rocks
Baker	Hess	O'Pake	Salvatore
Bell	Holl	Pecora	Shaffer
Brightbill	Hopper	Peterson	Shumaker
Fisher	Jubelirer	Punt	Tilghman
Greenleaf	Lemmond	Reibman	Wenger
Greenwood	Loeper	Rhoades	Wilt

NAYS—20

Andrezeski	Fumo	Mellow	Scanlon
Belan	Jones	Musto	Stapleton
Bodack	Lewis	Porterfield	Stewart
Dawida	Lincoln	Regoli	Stout
Fattah	Lynch	Ross	Williams

A majority of the Senators having voted "aye," the question was determined in the affirmative.

The PRESIDENT. Senate Bill No. 185 will go over in its order, as amended.

BILLS OVER IN ORDER

SB 371, 403, HB 491, SB 709 and 747 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL ON THIRD CONSIDERATION AMENDED

SB 759 (Pr. No. 1103) — The Senate proceeded to consideration of the bill, entitled:

An Act requiring the accreditation of persons engaged in occupations relating to asbestos; granting certain powers to the Department of Labor and Industry; and providing for criminal and civil penalties.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

Senator ARMSTRONG, by unanimous consent, offered the following amendment No. A3802:

Amend Sec. 6, page 4, by inserting between lines 4 and 5:

(c) Exemption.—A person licensed as a professional engineer, competent in the field of asbestos abatement, shall be considered accredited as a project designer under this act.

On the question,

Will the Senate agree to the amendment?

It was agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator ARMSTRONG.

BILLS OVER IN ORDER

SB 854 and 983 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE

SB 1008 (Pr. No. 1180) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971," providing an exclusion from the sales tax of certain gold and silver.

Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

Senator LINCOLN. Mr. President, Senate Bill No. 1008 is another bill in a series of bills that have appropriations attached to them. Even though I have no problem with what the bill does itself, the fact is that \$3 million would be lost in revenue. I know there are some questions about that figure, but both the Republican and Democrat Committees on Appropriations have come up with a \$3 million fiscal note in being consistent with what we have been asking for the last week and a half when these types of bills have been run. I think this should be more appropriately handled at budget time, and I would ask for a "no" vote.

Senator ARMSTRONG. Mr. President, what this bill does is it makes gold coins, numismatic coins, equal to stocks and bonds. These are investments. These are not commodities. These are actually investments that people make. What is happening is that people are going to other states and buying these coins because with the 6 percent markup, plus the fee you would pay the broker, you may be talking anywhere from an 8 to 10 percent increase that you would have to get just to break even. It just does not make sense, and what is happening is they are going to other states and buying their coins. A lot of the big brokerage firms actually buy these coins, and they are held in New York City or in a vault. As a result, the tax is never paid. By exempting that 6 percent sales tax, I think you would see a dramatic increase in the sales of coins, bullion and silver. As a result, I think you would see more jobs in Pennsylvania. I think with the \$3 million loss which initially you probably will have, over the long term you will have an increase in business and in jobs. I really, honestly believe that it will be a wash in a year or two, and I think it will be a positive cash flow down the road.

Senator LINCOLN. Mr. President, I have no quarrel with the argument put forth by the gentleman from Lancaster, Senator Armstrong, but I return to my original opposition and the argument I used. It is ironic that tomorrow morning Governor Casey, by virtue of a law that we passed a number of years ago, will be addressing certain Members of all four caucuses of the Legislature as to the budget for the coming year. I do not believe this bill with the \$3 million appropriation has probably even begun to be considered in that process. I think that rather than to pass a bill here this evening, we would be much more prudent and probably more responsible if this bill would become part of whatever may be discussed between now and June 30th in a finally passed budget with the resources that are available. I am not sure where the resources are going to come from, whether it would affect a nursing home program or it would affect a day care program or some basic subsidy in education, or whatever. I think there is folly in doing things in a haphazard manner as we have been over the last week and a half or so, spending \$16 million, \$18 million or \$20 million, which does not really sound like an awful lot until come June, when you have to take \$8 million out of a small school district subsidy formula

or you cannot increase the subsidy by the amount you want, or the nursing home care per patient amount is not increased. I really do not believe it is a responsible thing to do, even though it is a very laudable effort on the part of Senator Armstrong, and I would think, probably, come May or June, if it is part of a responsibly funded budget, I would have no problem in supporting it.

And the question recurring,
Shall the bill pass finally?

(During the calling of the roll, the following occurred:)

Senator FISHER. Mr. President, I would like to change my vote from "no" to "aye."

The PRESIDENT. The gentleman will be so recorded.

Senator GREENWOOD. Mr. President, I would like to change my vote from "no" to "aye."

The PRESIDENT. The gentleman will be so recorded.

Senator FATTAH. Mr. President, I would like to change my vote from "aye" to "no."

The PRESIDENT. The gentleman will be so recorded.

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—31

Andrezeski	Greenwood	Madigan	Rocks
Armstrong	Helfrick	O'Pake	Salvatore
Baker	Hess	Pecora	Shumaker
Bell	Holl	Peterson	Tilghman
Brightbill	Hopper	Porterfield	Wenger
Dawida	Jubelirer	Punt	Williams
Fisher	Lemmond	Reibman	Wilt
Greenleaf	Loeper	Rhoades	

NAYS—17

Belan	Lewis	Musto	Shaffer
Bodack	Lincoln	Regoli	Stapleton
Fattah	Lynch	Ross	Stewart
Fumo	Mellow	Scanlon	Stout
Jones			

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. The Chair recognizes the presence on the floor of Senator Lewis. His temporary Capitol leave will be cancelled.

THIRD CONSIDERATION CALENDAR RESUMED

BILLS OVER IN ORDER

SB 1310, 1324, 1333 and 1335 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

SECOND CONSIDERATION CALENDAR**PREFERRED APPROPRIATION BILL
ON SECOND CONSIDERATION AMENDED**

HB 2125 (Pr. No. 2791) — The Senate proceeded to consideration of the bill, entitled:

An Act appropriating money from the Sunny Day Fund to the Department of Commerce for an economic development project in Clinton County.

The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

Senator LOEPER, on behalf of Senator CORMAN, offered the following amendment No. A4110:

Amend Sec. 2, page 2, line 10, by striking out "Romeo Charlie Inc." and inserting: Piper North, Inc.

Amend Sec. 2, page 2, lines 10 and 11, by striking out "Piper North"

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

Will the Senate agree to the bill on second consideration, as amended?

Senator FUMO offered the following amendment No. A4165 and, if agreed to, asked that the bill be considered for the second time:

Amend Sec. 2, page 2, lines 7 and 8, by striking out "or guaranteeing principal and interest under"

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

Will the Senate agree to the bill on second consideration, as amended?

It was agreed to.

Ordered, To be printed on the Calendar for third consideration.

BILLS ON SECOND CONSIDERATION

HB 125 (Pr. No. 136) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 11, 1879 (P. L. 147, No. 153), entitled "An act fixing the compensation of persons called to serve as coroner's jurors in this commonwealth," increasing the compensation to be paid to jurors; and providing for mileage payments.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

HB 176 (Pr. No. 195) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for the grading and offense of a former convict not to own a firearm.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

SB 266 (Pr. No. 1701) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 24 (Education) of the Pennsylvania Consolidated Statutes, authorizing retirement credit for members of the Cadet Nurse Corps.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

HB 310 (Pr. No. 1306) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for mandatory sentencing for convictions for certain drug offenses.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

**BILL ON SECOND CONSIDERATION
AMENDED AND REREFERRED**

HB 376 (Pr. No. 2829) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for prisoner of war plates and for special plates for recipients of the Purple Heart; and providing for a special license plate for Pearl Harbor survivors.

The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

AMENDMENT OFFERED

Senator FATTAH offered the following amendment No. A4156:

Amend Title, page 1, line 3, by striking out "and"

Amend Title, page 1, line 5, by removing the period after "survivors" and inserting: ; authorizing the Insurance Department to grant the exclusive right to provide automobile insurance in cities of the first class to a single carrier; and making an appropriation.

Amend Bill, page 3, by inserting between lines 11 and 12:

Section 3. Chapter 17 of Title 75 of the Pennsylvania Consolidated Statutes is amended by adding a subchapter to read:

CHAPTER 17**FINANCIAL RESPONSIBILITY**

* * *

SUBCHAPTER J**SINGLE CARRIER AUTOMOBILE INSURANCE
PLAN FOR CITIES OF THE FIRST CLASS**

Sec.

1799.1. Legislative findings.

1799.2. Definitions.

1799.3. Requirements for bids.

1799.4. Awarding of contract.

1799.5. No bids.

1799.6. Consumer advocate for automobile insurance in cities of the first class.

1799.7. Anti-trust provisions.

1799.8. Innovative automobile-theft prevention

program.

1799.9. Uninsured motorist crackdown.

1799.10. Fast track arbitration.

1799.11. Fee schedule for property damage and replacement.

1788.12. Assigned Risk Plan.

1799.13. Studies and reports.

1799.14. Responsibility for costs.

1799.15. Property Insurance Guarantee Program not affected.

1799.16. Plan to be self-sustaining.

1799.17. Rules and regulations.

§ 1799.1. Legislative findings.

For many years, the Pennsylvania General Assembly, through the House and Senate Insurance Committees, has seen and heard extraordinary evidence that included fact-findings, research, consumer complaints, and public hearings on the issue of automobile insurance. Further, through studies done by the Insurance Department, the Governor's Office and a series of investigative reports written by area newspapers, the overwhelming conclusion is that affordable and accessible automobile insurance does not exist in cities of the first class. Therefore, the General Assembly, by this subchapter, directs that the Insurance Department be given the power to grant the exclusive right to provide automobile insurance in cities of the first class to a single carrier selected through a competitive bid process, as provided for in this subchapter.

§ 1799.2. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Insurance Department of the Commonwealth.

§ 1799.3. Requirements for bids.

(a) Prebid.—Thirty days prior to the opening of bids for the exclusive right to provide automobile insurance in cities of the first class, the department shall promulgate rules and regulations for prequalification of bidders. Nothing in the rules and regulations shall prohibit the submission of bids from new corporations that otherwise meet the department's licensing standards for automobile insurance. All prospective bidders shall be required to have a minimum of \$1,000,000,000 in loss reserves and/or meet other financial means tests set forth by the department.

(b) Bid process.—

(1) Initial bid.—The initial bid shall be in compliance with the following:

(i) The length of the contract under the initial bid shall be five years, beginning no earlier than September 1, 1990, but no later than October 1, 1990.

(ii) All bids shall reflect premium costs to motorists of the city, excluding taxes, and be at least 25% below automobile insurance rates in effect on November 1, 1989, for a substantial number of drivers (e.g., over 95% of Philadelphia motorists).

(iii) The rate structure should speak to a one-year period. Increases shall be based on actual claims experience. The department shall promulgate additional rules relating to rate increases.

(iv) The department shall promulgate rules that specify five rate structures for the city and establish an acceptable ceiling within each range.

(v) The department shall allow, within the bidding process, a retrospective rating approach to be utilized by bidders within standards set by the department. This retrospective rating approach shall also be used in case of negotiation and shall also apply to the mandated "pooled loss reserve fund" set forth in section 1799.5(b)(1). If, at the end of the year, the single carrier's premium dollars

represent less than the actual costs, the department shall allow the single carrier to recoup 50% of its losses. If costs are under the premiums charged, the single carrier shall refund 50% as a credit on next year's premium.

(vi) Joint ventures shall be allowed between one or more companies.

(vii) There shall not be more than 10% of the proposed market set aside for a joint venture with a Philadelphia-based insurer.

(viii) Any assignment of responsibility under joint venture arrangements shall be at the discretion of the parties, and shall be included as part of the bid submission.

(2) Subsequent bids.—Rebidding shall occur at subsequent three-year intervals. Future bids shall give preference to the original single carrier bidder. This preference shall fall within 5% of the present lowest bid.

(3) Termination of contract.—The single carrier shall be required to give a one-year notice before the termination or cancellation of the contract. The department shall promulgate additional rules relating to termination.

§ 1799.4. Awarding of contract.

(a) Factors.—Contracts for the exclusive right to provide automobile insurance in cities of the first class shall be awarded on the basis of the following two factors:

(1) the lowest premium cost to motorists of the city; and

(2) the department's determination of the efficiency and effectiveness of the single carrier's ability to serve the city market.

(b) Notification.—The Department of Transportation, in cooperation with the Department of Insurance, shall, within 45 days of the awarding of a contract, notify all motorists in the city of the first class of the new single carrier system.

(c) Information packet.—Within 60 days of the awarding of a contract the department and single carrier shall design a Philadelphia Motorist Information Package. This package shall include a letter that, by its return, will indicate acceptance of the single-carrier system. Fifty-one per cent of returned letters indicating an acceptance of the single carrier system, shall be required for implementation of the system.

(d) Existing personnel.—Bidders shall make a good faith effort to utilize existing personnel involved in servicing the Pennsylvania market as of November, 1989.

§ 1799.5. No bids.

(a) Authority of department.—If no acceptable bids are received by the department, it shall have the authority to negotiate with a prospective provider, as long as the following conditions are met:

(1) the department must negotiate with four companies simultaneously; and

(2) the department must conduct negotiations according to the guidelines set forth in this subchapter.

(b) Additional authority.—In the event that there are no competitive bids or negotiated bids, the department shall have the power to do the following:

(1) Mandate that all insurance companies doing business in this Commonwealth participate in a "pooled lost reserve fund," for which the level of participation for each company shall be based upon each company's share of the automobile insurance market in the Commonwealth; and

(2) issue a bidded or negotiated servicing contract with a single provider for the city. The servicing contract shall not be restricted solely to licensed insurance companies.

(c) Premium costs.—Premiums shall be jointly established between the servicer and pooled reserve participants, with the department secretary as arbitrator. Premium costs shall, at the minimum, fall below 25% of the insurance rates in effect on

November 1, 1989. If the mandated pool concept cannot be done on a basis that is actuarially sound, in the judgment of the department, the single carrier plan shall not go into effect.

(d) Board of advisors.—Each contributing company shall sit on a board of advisors, established for the purpose of making recommendations to the single provider. Recommendations made by the board of advisors shall be implemented unless the department deems otherwise. Each company's vote shall be proportional to its mandated financial participation.

(e) Assessment of losses.—Percentage of losses incurred under the pool shall be assessed as follows:

- (1) 50% of the loss to be incurred by the pool;
- (2) 25% of the loss to be incurred by the servicer; and
- (3) 25% of the loss to be incurred by the fund.

The same formula shall apply in those instances where savings are realized.

(f) Option.—Any company may opt out of a seat on the board of advisors, thereby absolving itself of any risk. In this instance, the respective company's 25% loss shall be passed on to motorists of the city in the form of an additional surcharge.

(g) Limit on surcharges.—Surcharges shall not be increased more than 10% in any given year.

§ 1799.6. Consumer advocate for automobile insurance in cities of the first class.

(a) Establishment.—There is hereby established within the Insurance Department an Office of Automobile Insurance Advocate to represent the interests of automobile insurance consumers in cities of the first class before the Pennsylvania Insurance Commission. The Automobile Insurance Advocate shall be within the department for administrative purposes only and no official within the department shall exercise any policy influence whatsoever over the performance of that office.

(b) Qualifications.—The Automobile Insurance Advocate shall be a person who by reason of training, experience and attainment is qualified to represent the interests of automobile insurance consumers in cities of the first class. Compensation shall be set by the Executive Board. The Automobile Insurance Advocate shall be appointed by the Governor by and with the consent of two-thirds of the members of the Senate.

(c) Restrictions.—No individual who serves as Automobile Insurance Advocate shall, while serving in such position, engage in any business, vocation, other employment or have other interests, inconsistent with his official responsibilities, nor shall he seek or accept employment nor render beneficial services for compensation with any insurance company offering automobile insurance in Pennsylvania during the tenure of his appointment and for a period of two years after the appointment is served or terminated.

(d) Employees.—The Automobile Insurance Advocate may appoint attorneys as assistant automobile insurance advocates and such additional clerical, technical and professional staff as needed, and may contract for such additional services as shall be necessary for the performance of all functions. The compensation of all employees shall likewise be set by the Executive Board.

(e) Authorization.—In addition to any other authority conferred by this subchapter, the Automobile Insurance Advocate is authorized, in carrying out responsibilities under this subchapter, to represent the interests of automobile insurance consumers in cities of the first class as a party, or otherwise participate for the purpose of representing an interest of such consumers before the Insurance Commission and before any court or agency, initiating proceedings if in his sole judgment such may be necessary, in connection with any matter involving the regulation of automobile insurance companies providing coverage to consumers in first class cities. Such representation may include actions before the Insurance Commission as well as before any regulatory agency of the United States or any Federal or State court as may, from time to time, be required.

(f) Exercise of discretion.—The Automobile Insurance Advocate may exercise discretion in determining the interests of insurance consumers that will be advocated, and in determining whether or not to participate in or initiate any particular proceeding. The Automobile Insurance Advocate may refrain from intervening or otherwise representing any particular interest of automobile insurance consumers when and if he makes a judgment that such is not necessary or practical in a particular case.

(g) Actions.—Any action brought by the Automobile Insurance Advocate before a court or an agency shall be brought in the name of the Automobile Insurance Advocate. Additionally, the advocate may name a consumer or group of consumers in whose name the action may be brought or may join with a consumer or group of consumers in bringing any action.

(h) Funding.—Funds for the establishment of the Office of Automobile Insurance Advocate shall be derived from a levy upon all automobile insurance premiums written within the city. This additional levy shall consist of a 1/2% tax upon the annual premiums of all automobile insurance policies written during the preceding calendar year in first class cities. Revenues from this additional tax shall be used in equal amounts to fund the following areas:

- (1) the Office of Automobile Insurance Advocate; and
- (2) the Economic Adjustment Plan to be administered by the Pennsylvania Department of Labor and Industry for those employees or agents of insurance carriers adversely affected by this subchapter. The plan shall deal with job training, relocation and related issues.

(i) Nonexclusive.—Nothing contained herein shall in any way limit the right of any individual consumer or group of consumers to bring any proceeding before either the Insurance Commission or any court.

(j) Responsibility of department.—Nothing contained herein shall be construed to impair the statutory authority or responsibility of the department to regulate automobile insurance providers in cities of the first class in the public interest.

(k) Reports.—The Automobile Insurance Advocate shall annually provide to the Governor, the Insurance Committee of both Houses of the General Assembly, and to the general public a report on the conduct and performance of the office. The Automobile Insurance Advocate shall make recommendations as may from time to time be necessary or desirable to protect the interests of automobile insurance consumers.

(l) Rules and regulations.—The Insurance Department shall promulgate rules and regulations that empower the Automobile Insurance Advocate to conduct annual managerial and efficiency audits of the single carrier.

§ 1799.7. Anti-trust provisions.

(a) General rule.—The General Assembly finds as a fact that the Single Carrier Automobile Insurance Plan for Cities of the First Class can only be successful if insurance carriers do not make agreements among themselves either to:

- (1) refuse to participate in the plan; or
- (2) fix their responses to requests for proposals relating to premiums, services, benefits or any other material factor in such a proposal.

(b) Prohibited acts.—With the exception of arrangements specifically permitted by subsection (c):

(1) No person legally eligible to participate as the single carrier of a plan or otherwise providing automobile insurance in Pennsylvania shall:

(i) Agree or conspire with any other person to refuse to participate in a plan.

(ii) Agree or conspire with any other person to refuse to submit a proposal in response to a request for proposals regarding a plan.

(2) No person legally eligible to participate as the single carrier of a plan or otherwise providing automobile insurance in Pennsylvania shall:

(i) Agree or conspire with any other person with regard to rates, scope of service, or any other materials features of a response to a plan request for proposal.

(ii) Discuss with any other person contents of a plan request for proposal or the response to a request for a proposal prior to the date and time for the final submission of proposals except in the presence of a representative of the commissioner or at a prebid conference formally called by the commissioner.

(c) Exceptions.—The provisions of subsection (b)(2) shall not apply to discussions and agreements relating to subcontracting of discreet portions of the plan set forth in the request for proposals nor to discussions and agreements relating to reinsurance.

(d) Act of delinquency.—Any insurer or other person described in section 502 of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of one thousand nine hundred and twenty-one, violating the provisions of this section shall be deemed to have committed an act of delinquency and may be subject to summary proceedings under sections 510 through 513 of the Insurance Department Act of one thousand nine hundred and twenty-one as well as provided grounds for rehabilitation and may be subject to formal proceedings under Article V of the Insurance Department Act of one thousand nine hundred and twenty-one.

(e) Criminal offense.—Any person violating the provisions of this subsection shall upon conviction be guilty of a felony of the third degree.

§ 1799.8. Innovative automobile-theft prevention program.

The department shall require motorists in cities of the first class, in order to obtain coverage, to participate in a program designed to more efficiently track and/or protect vehicles in case of theft. Motorists shall have a range of options that reflect individuals' financial ability to comply with this program.

§ 1799.9. Uninsured motorist crackdown.

The Department of Transportation, within 30 days of awarding a contract, shall enter into an agreement with the single carrier that is designed jointly by the Insurance Department and the Department of Transportation and provides an effective mechanism for monitoring uninsured motorists in cities of the first class.

§ 1799.10. Fast track arbitration.

(a) Establishment.—A 100-day binding arbitration process shall be established for the purpose of resolving automobile insurance claims in cities of the first class. The process shall include the following provisions:

(1) In an action arising under an insurance policy, if the court finds that the insurer has acted in bad faith toward the insured, the court may take all of the following actions:

(i) Award treble damages on the amount of the claim.

(ii) Award punitive damages against the insurer.

(iii) Assess court costs and attorney fees against the insurer.

(b) Binding arbitration.—A binding arbitration process shall be established by regulation.

(c) Immunity.—An insurance company which agrees to binding arbitration shall be immunized from bad faith actions on first party claims.

(d) Rules and procedures.—Rules and procedures for the "fast track" arbitration system shall be promulgated by the Attorney General and the Insurance Commissioner. The rules and procedures must be approved by the House and Senate Judiciary Committees and shall be adopted in accordance with the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

§ 1799.11. Fee schedule for property damage and replacement.

The single carrier shall be authorized to develop a fee schedule for property damage repair and replacement. The single carrier shall further determine the eligibility of participants.

§ 1799.12. Assigned Risk Plan.

The process for placing motorists into or removing motorists from the Assigned Risk Plan for Philadelphia shall remain as it exists, as of November, 1989.

§ 1799.13. Studies and reports.

Within one year of the effective date of this subchapter, the department shall:

(1) study and issue a report regarding the feasibility of a substantial decrease in costs for motorists residing outside of the city of the first class if a single carrier system is instituted in additional political subdivisions of this Commonwealth; and

(2) study and issue a report regarding the premiums charged and profitability of those insurance carriers doing business throughout this Commonwealth that are no longer underwriting policies in the city of the first class, as a result of this subchapter.

§ 1799.14. Responsibility for costs.

The department shall insure that all costs associated with this plan are solely the responsibility of the single carrier and insured motorists of the city of the first class. In the event of a mandated loss pool reserve fund, the department shall set forth guidelines to allow the insurance carriers to surcharge the motorists for the preceding calendar year to recoup any losses.

§ 1799.15. Property Insurance Guarantee Program not affected.

Any losses that occur under the plan shall not in any way affect the State Property Insurance Guarantee Association.

§ 1799.16. Plan to be self-sustaining.

The single carrier automobile insurance plan for cities of the first class shall be self-sustaining and shall not receive subsidies in any form.

§ 1799.17. Rules and regulations.

The department may promulgate any rules and regulations it may deem necessary to carry out the provisions of this subchapter as long as such rules and regulations are in keeping with the provisions of this subchapter.

Section 4. The sum of \$1,000,000, or as much thereof as may be necessary, is hereby appropriated to the Office of Automobile Insurance Advocate for startup expenses for that office prior to receipt of the revenues to be derived by means of the levy imposed by this act. This sum shall be repaid to the General Fund within five years of the effective date of this act.

Amend Sec. 3, page 3, line 12, by striking out "3" and inserting: 5

On the question,

Will the Senate agree to the amendment?

Senator FATTAH. Mr. President, this evening as we consider another opportunity to address the problem of high insurance rates throughout Pennsylvania, we look towards Philadelphia, and we note there is in the City of Philadelphia a significant problem. Therefore, we offer this amendment to House Bill No. 376, which we hope would address that problem. The amendment would set up a process whereby the State Insurance Department would, through a process of competitive bid, award the exclusive right to write auto insurance in the City of Philadelphia to one company. To do that while utilizing the data provided through a study done by the State Insurance Department would show there could be a 25 percent reduction in rates by aggregating the Philadelphia

market into a single carrier. It would be rebid every three years. There would be, at least at this point, seven companies in the state that could compete in that bid process in relationship to their financial strength. There is a set of circumstances laid out in the bill that would allow for cost containment initiatives under each area of identifiable costs associated with the provision of auto insurance. There is an ability to deal with costs associated with automobile repair, health care, administrative costs and claims through a fast track arbitration system that would be set up in the Philadelphia circumstance. We have, through the development of this legislation, spoken and worked with many of my colleagues here in the Senate and experts around the country. We think that this is an innovative, bold but practical approach to resolving the problem in Philadelphia and, perhaps, in other urban cities in this state. This amendment is an opportunity for the Senate of Pennsylvania to move in a different way to reform a system that is fundamentally flawed, not through an incremental approach, but by a new approach. It is not an abnormal approach because it has always been taught in business schools around this country that if you produce an item in quantity you can produce each one of those items, goods or services, at a cheaper cost. Consumers know if you buy in quantity, if you purchase something in quantity, you can buy it at a discount. In Philadelphia we have over 400,000 drivers who now spend for auto insurance some \$750 million a year in premiums. Our State Insurance Department indicates that at minimum there is a 25 percent savings. This plan offers to the citizens of the City of Philadelphia the opportunity for the lowest possible premium cost in terms of covering their auto insurance cost. This is a proposal that has the entire support of the Democratic caucus in the Senate. It has growing consensus in the Republican caucus. We offer it this evening, this amendment, in an effort to move farther along in addressing the No. 1 pocketbook issue in this state, and we believe it has statewide consequences. Insurance companies have stated for a very long time that they have lost money in Philadelphia, that their profitability is damaged in the Philadelphia market and, therefore, they have to charge higher premiums elsewhere in the state. By setting up a circumstance where one company can make a great deal of money in Philadelphia and provide adequate service at a cheaper price, we also offer to those other insurance companies that may not be successful in the bid process the opportunity to become more profitable and thereby lower premiums in other parts of the state. This proposal has attracted interest and support from around the nation. I would offer a letter from the California Assembly Speaker who indicates that this proposal may offer solutions to urban areas in California, a letter inviting me and my staff to visit with the Insurance Committee of the New York Assembly to discuss its potential there. We would hope that since it has been generated here, first debated on the floor of this Senate, we would be the first Body to act on a different, new approach, resolving the issue of affordable and accessible auto insurance in the cities of the first class.

(The following letters were made a part of the record at the request of the gentleman from Philadelphia, Senator FATTAH:)

ASSEMBLY
CALIFORNIA LEGISLATURE

December 6, 1989

Senator Chaka Fattah
State Capitol
Harrisburg, PA 17120-0030

Dear Senator Fattah:

I have read with interest your proposal to grant the exclusive right to provide auto insurance to a single carrier through a competitive bid process.

As you know, I have authored a measure in the California Legislature that is aimed at reducing auto insurance premiums for all California drivers.

I am enthusiastic over the potential of your proposal to reduce auto insurance rates by as much as 40 percent. It is my understanding that the Pennsylvania Legislature will soon address your proposal in a two-house conference committee.

I would appreciate it if you could keep me apprised of any developments pertaining to your measure.

I look forward to continuing to work with you to resolve what we both agree is a problem of national proportions — providing affordable auto insurance to all consumers. An enactment of your innovative plan could help set the tone nationally for auto insurance reform. In addition, it could provide needed relief for urban communities.

Thank you for sharing your proposal with me. I look forward to communicating with you as both of our respective Legislature's address this critical issue.

Sincerely,

WILLIE L. BROWN, JR.
Speaker of the Assembly

HOUSE OF REPRESENTATIVES
LANSING, MICHIGAN

December 8, 1989

Senator Chaka Fattah
Senate of Pennsylvania
State Capitol
Harrisburg, PA 17120-0030

Dear Senator Fattah:

Thank you for sharing with me your auto insurance reform bill.

I, too, am deeply concerned about the practices of the auto insurance industry. Insurers have a pattern of subjective rating, skimming, discrimination, and arbitrary categorization of risks.

If such practices cannot be reversed, it is often our only recourse to turn to state-operated insurance programs. Our constituencies have suffered greatly because of the insurers' continued refusal to apply equity to insurance ratemaking, underwriting and marketing practices.

I wish you success in your reform effort. We need to take a stand to reintroduce democratic principles into the laws which regulate our insurance systems.

I applaud your efforts.

Sincerely,

NELSON W. SAUNDERS
State Representative

 THE ASSEMBLY
 STATE OF NEW YORK
 ALBANY

December 7, 1989

The Honorable Chaka Fattah
 Senate of Pennsylvania
 Room 458 Main Capitol
 Harrisburg, PA 17120

Dear Senator Fattah:

I have had my staff review your proposal for single carrier providers for automobile insurance through your State Insurance Department. My staff has indicated to me that your plan has the possibility of saving between 25% to 40% off the insurance rates, especially for drivers in large metropolitan areas.

Norman McConney, my Chief of Staff, will be contacting you to set up a meeting to explore the possibility of doing this in New York.

Thank you for informing me of the proposal.

I would also like to invite you to address our State Assembly Insurance Committee, sometime during the coming year.

Sincerely,

ARTHUR O. EVE
 Deputy Speaker

Senator ROCKS. Mr. President, I rise in support of this amendment, and also, if I may, to commend my colleague from Philadelphia, who has really taken this concept of single carrier insurance with some intensity over the last couple of weeks as we were looking at the overall insurance reform package that, hopefully, will pass before we leave here this week. I commend him not just for the efforts, but for a concept that I know he has now reached across the nation to see how it could be considered in a major urban area, since the overwhelming insurance problem in the Commonwealth, the emergency, if you will, is in the City of Philadelphia. I concur in what the gentleman has proposed here tonight.

Mr. President, I desire to interrogate the gentleman from Philadelphia, Senator Fattah.

The PRESIDENT. Will the gentleman from Philadelphia, Senator Fattah, permit himself to be interrogated?

Senator FATTAH. I will, Mr. President.

Senator ROCKS. Mr. President, the issue of single carrier insurance where most of the questions that have arisen come in a context as to whether or not there would be, in fact, that company that would enter into the bidding process—and I know that you and I have had much discussion away from the floor on that issue—is it possible in your mind that if we are going to do this by way of further study or further consideration by the state's insurance department, that the date for that to commence could even precede anything else we are doing with insurance reform in the rest of the Commonwealth?

Senator FATTAH. Mr. President, I think absolutely so. In fact, in some of the discussions among the legislative leaders, I think the dates, specifically in terms of the enactment of such a program, could and should be moved up, but I think the most important issue that needs to be recognized is that we have had discussions with major insurance companies in this

state. There does seem to be a growing consensus and understanding that if there are, indeed, \$750 million in premiums in the city of the first class, if, indeed, there is a structural way to contain and to control costs in every conceivable aspect, that there would be anxious bidders looking at the Philadelphia market from a totally different vantage point. I think that in the spirit of your comment, if we could move the process forward, especially in terms of the discussions that have been in and around the Capitol of late, that would be helpful. I am aware of later amendments that will be offered to this bill which are dated specifically, and I think it is reasonable in terms of responding to the City of Philadelphia, which has the highest premiums of any city in this nation, that we move in a more expeditious manner.

Senator ROCKS. Mr. President, I thank the gentleman and my colleague from Philadelphia and if I may, finally, speak upon this amendment.

If we can continue to leverage forward with the concept that the gentleman has brought farther than many believed would be considered in this Commonwealth for its first-class city, Philadelphia, that of single carrier insurance. We certainly are joined together in what is a goal and that is for the availability of insurance in the state's emergency-ridden area, the City of Philadelphia, and then, most importantly, for more affordable insurance with rates there for both of our constituencies that have literally wracked the motorists of Philadelphia.

Senator WILLIAMS. Mr. President, very briefly, I just wanted to add to the concept put forth by the gentleman from Philadelphia, Senator Fattah, as being one that we have talked about for a long while to focus on the problem for real and where it is. Without getting into further detail or debate, I just want to indicate the strong and clear support of the Philadelphia delegation and also to indicate that I am sort of a little nervous that we are looking for some basic and fundamental answers, and we have one on the table. Wherever we go from here at this juncture, I just wanted to indicate our clear direction is in the direction offered by the gentleman.

Senator SALVATORE. Mr. President, I just wanted to commend the gentleman from Philadelphia, Senator Fattah, for his initiative and the hard work he has done in this area because it affects all of us in Philadelphia. I just wanted to say to Senator Fattah that in doing so, he will remember two things that I have been trying to do up here in that area for first class cities because it seems to affect only us in Philadelphia. With the uninsured motorists, we would either impound the vehicle if he is stopped—and I hope you would remember that, Senator Fattah, that is important—and if he is apprehended by the law, or also have some mechanism in there that we have a notarized affidavit when he applies for a transfer of his title or registration so that maybe when he says he has insurance, he had better have insurance because then he would be perjuring himself. They are two things that I would like to see added to that because the newspapers print how much money they pay for our vehicles, but everybody who works as a salesman for anybody gets reimbursed for his cars.

They failed to say what we pay as private citizens. What I am paying for two cars is \$6,000 a year, and my wife drives about 4,000 miles a year. I am as fed up as the rest of the people in Philadelphia, and I cannot afford it, just like the rest of the people in Philadelphia, and I want to see something done. I want to commend Senator Fattah for taking the initiative to try to solve a problem that really affects all of us in Philadelphia, more so than the rest of the state.

Senator FUMO. Mr. President, I rise because I was one of the opponents of the concept from the gentleman from Philadelphia, Senator Fattah, when he last brought it to the attention of the General Assembly. In the meantime, I think he has done well. He has gone out and looked in back of the proposal and has gotten together a very comprehensive study and has certainly now put together a piece of legislation that I not only can support, but I can support wholeheartedly. It is one of a couple of proposals that I have seen to date that I think would help Philadelphia solve its problems. I felt obligated at this time, having been probably one of the few Philadelphians who voted "no" last time, to say that after the work the Senator has done on the proposal, I can wholeheartedly support the concept and rise to offer my remarks in that regard.

Senator LOEPER. Mr. President, I would just indicate to the maker of the amendment, it is my intention a little later this evening in this process to offer what many of you view as a compromise, comprehensive amendment to deal with the automobile insurance problem in Pennsylvania. I can indicate to the gentleman that a section of this compromise amendment is directed specifically to insurance in the cities of the first class and provides for language for a study to be conducted as to the feasibility of that proposal. Further, it gives the flexibility to implement such a plan. In light of that, Mr. President, I would ask the gentleman, Senator Fattah, if he would be willing to withdraw the amendment at this time?

Senator FATTAH. Mr. President, let me say that throughout this process I have enjoyed the cooperation of the Majority Leader and the Minority Leader, both the gentleman from Delaware, Senator Loeper, and my friend, the gentleman from Lackawanna, Senator Mellow, in moving this process forward. When we debated this issue in June, there were some twenty-two votes on the floor of this Senate in favor of it. After that, the Majority Leader and the Minority Leader worked with me to arrange it so this proposal could be studied in detail. We now have a study that indicates that there is, at minimum, a 25 percent savings for Philadelphia motorists. I would like to thank the Majority Leader and his staff, Dave Woods, for their work.

AMENDMENT WITHDRAWN

Senator FATTAH. Mr. President, at this point I would be prepared to withdraw this amendment but with one caveat, and that is that there will be an effort between now and a final resolution on this matter to address some of the final concerns we have with the proposal as it is presently stated. I would like to thank the Majority Leader. On that note, I will withdraw the amendment.

The PRESIDENT. Senator Fattah withdraws his amendment.

And the question recurring,

Will the Senate agree to the bill on second consideration?

Senator SCANLON offered the following amendment No. A4129 and, if agreed to, asked that the bill be considered for the second time:

Amend Title, page 1, lines 1 through 5, by striking out all of said lines and inserting:

Amending Titles 18 (Crimes and Offenses), 40 (Insurance) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further defining "racketeering activity"; providing for the offense of insurance fraud; further providing for the effect of restriction of operating privileges on insurance premiums; providing for a notice of intent to withdraw; providing for investigatory powers and inspection rights; establishing a cause of action for persons who have suffered an insurance fraud; granting civil immunity to certain persons; imposing penalties; providing for the fiduciary capacity of agents and brokers and for acting as an agent or broker without a license; further providing for theft by agents, brokers and public adjusters; providing for unfair insurance practices and insurance fraud; establishing a uniform procedure for the review by the Insurance Department of certain rate filings; regulating the writing, cancellation of or refusal to review automobile insurance policies; further providing for financial responsibility; providing for the election of tort options; further providing for assigned risks; adding definitions; further providing for prisoner of war plates and for special plates for recipients of the purple heart; providing for a special license plate for Pearl Harbor survivors; and further providing for chemical testing to determine amount of alcohol or controlled substances and for the suspension of drivers' licenses for driving under the influence of alcohol or controlled substances.

Amend Bill, page 1, lines 8 through 18; page 2, lines 1 through 30; page 3, lines 1 through 12, by striking out all of said lines and inserting:

Section 1. Section 911(h)(1)(i) of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:

§ 911. Corrupt organizations.

(h) Definitions.—As used in this section:

(1) "Racketeering activity" means:

(i) any act which is indictable under any of the following provisions of this title:

Chapter 25 (relating to criminal homicide)

Section 2706 (relating to terroristic threats)

Chapter 29 (relating to kidnapping)

Chapter 33 (relating to arson, etc.)

Chapter 37 (relating to robbery)

Chapter 39 (relating to theft and related offenses)

Section 4108 (relating to commercial bribery and breach of duty to act disinterestedly)

Section 4109 (relating to rigging publicly exhibited contest)

Section 4117 (relating to insurance fraud)

Chapter 47 (relating to bribery and corrupt influence)

Chapter 49 (relating to perjury and other falsification in official matters)

Section 5512 through 5514 (relating to gambling)

Chapter 59 (relating to public indecency)

Section 2. Title 18 is amended by adding a section to read:
 § 4117. Insurance fraud.

(a) Offense defined.—An entity commits an offense if it:

(1) knowingly and with the intent to defraud a government or local agency files, presents or causes to be filed with or presented to such government or local agency any document that contains false, incomplete or misleading information concerning any fact or thing material to the agency's determination in approving or disapproving a filing, transaction or other action which is required or filed in response to an agency's request;

(2) engages in unlicensed agent or broker activity as defined by the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of one thousand nine hundred and twenty-one, knowingly and with the intent to defraud any entity or the public;

(3) knowingly and with the intent to defraud any entity presents or causes to be presented to any entity any statement forming a part of, or in support of, an insurance application or an insurance claim that contains any false, incomplete or misleading information concerning any fact or thing material to the insurance application or insurance claim;

(4) knowingly and with the intent to defraud any entity assists, abets, solicits or conspires with another to prepare or make any statement that is intended to be presented to any entity in connection with, or in support of, any insurance application or insurance claim that contains any false, incomplete or misleading information concerning any fact or thing material to the insurance claim; or

(5) borrows or uses another person's insurance identification or permits his insurance identification to be used by another, knowingly and with intent to present a fraudulent claim for reimbursement to an insurer.

(b) Electronic claims submission.—If a claim for a benefit is made by means of computer billing tapes or other electronic means, it shall be a rebuttable presumption that the entity knowingly made the claim if the entity has advised the insurer in writing that claims for benefits will be submitted by use of computer billing tapes or other electronic means.

(c) Grading.—An offense under this section is a felony of the third degree.

(d) Restitution.—The court shall, in addition to any other sentence authorize by law, sentence an entity convicted of violating this section to make restitution under section 1106 (relating to restitution for injuries to person or property).

(e) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Entity." Any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's insurer, fraternal benefit society, beneficial association and any other legal entity engaged or proposing to become engaged, either directly or indirectly, in the business of insurance, including agents, brokers, adjusters and health care plans as defined in 40 Pa.C.S. Chs. 61 (relating to hospital plan corporations), 63 (relating to professional health services plan corporations), 65 (relating to fraternal benefit societies) and 67 (relating to beneficial societies) and the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act. For purposes of this section, health care plans, fraternal benefit societies and beneficial societies shall be deemed to be engaged in the business of insurance.

"Insurance application." A document submitted by a prospective insured which requests insurance coverage and which provides information requested by an insurer to evaluate the risk.

"Insurance claim." A claim for payment or other benefit pursuant to an insurance policy.

"Insurance policy." A document setting forth the terms and conditions of a contract of insurance.

"Statement." Any oral or written representation or other evidence of loss, injury or expense, including, but not limited to, any notice, statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, X-ray, test result or computer-generated documents.

Section 3. Section 6310.4(d) of Title 18 is amended to read:
 § 6310.4. Restriction of operating privileges.

(d) Insurance premiums.—An insurer shall not increase premiums, impose any surcharge or rate penalty, or make any driver record point assignment for automobile insurance, nor shall an insurer cancel or refuse to renew an automobile insurance policy on account of a suspension under this section. However, the provisions of this subsection shall not apply where violations of section 6307 (relating to misrepresentation of age to secure liquor or malt or brewed beverages), 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages) or 6310.3 (relating to carrying a false identification card) occur in connection with the operation of a motor vehicle.

Section 4. Section 101 of Title 40 is amended to read:
 § 101. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific parts, articles, chapters or other provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Beneficial society." A corporation subject to regulation under the act of June 4, 1937 (P.L.1643, No.342).

"Certificate of authority." An instrument in writing issued by the department authorizing an insurer or proposed insurer to engage in the business of insurance, or some specified line, branch or part thereof, in this Commonwealth.

"Commissioner." The Insurance Commissioner of the Commonwealth.

"Corporation not-for-profit." A corporation not-for-profit as defined in Title 15 (relating to corporations and unincorporated associations).

"Department." The Insurance Department of the Commonwealth.

"Foreign." Not incorporated or organized under the laws of this Commonwealth.

"Uncertificated." Not holding an unsuspended or unrevoked certificate of authority authorizing the relevant line, branch or part of the business of insurance.

Section 5. Title 40 is amended by adding a section to read:
 § 102. Notice of intent to withdraw.

(a) General rule.—Whenever an insurer licensed to write property and casualty insurance decides to withdraw from any line, subline or classification of business or to withdraw any subsidiary company or program of insurance, the insurance company shall file with the department a notice detailing the intent to withdraw. The notice shall include, but not be limited to, the reasons for withdrawal, the number of policyholders affected, the effective date of the withdrawal, if the withdrawal is Statewide or national, and a listing of insurers for potential replacement coverage to insureds. This notice of withdrawal by insurers shall be filed at least 60 days prior to the effective date of the withdrawal. For the purposes of this section, withdrawal shall mean the intent to cease writing any insurance in a particular line.

(b) Compliance with law.—No insurer licensed to write property and casualty insurance shall withdraw from any line or classification of business, nor withdraw any subsidiary company or program of insurance, without complying with the provisions of this section or the provisions of any other law.

Section 6. Title 40 is amended by adding chapters to read:

CHAPTER 5

INVESTIGATIONS AND ENFORCEMENT

Sec.

- 501. Definitions.
- 502. Access to records and property.
- 503. Search warrants.
- 504. Confidentiality of evidence.
- 505. Cause of action.
- 506. Immunity.
- 507. Interference with investigation.
- 508. Restitution.
- 509. Fiduciary capacity of agents and brokers.
- 510. Theft by agents and brokers.
- 511. Acting as agent without license.
- 512. Acting as broker without license.
- 513. Transacting business with unlicensed broker.
- 514. Penalties.
- 515. Rules and regulations.

§ 501. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Person.” Includes any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd’s insurer, fraternal benefit society, beneficial association and any other legal entity engaged in the business of insurance, including agents, brokers and adjusters. The term includes health care plans as defined in Chapters 61 (relating to hospital plan corporations), 63 (relating to professional health services plan corporations), 65 (relating to fraternal benefit societies) and 67 (relating to beneficial societies) and the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act. For purposes of this chapter, health care plans, fraternal benefit societies and beneficial societies shall be deemed to be engaged in the business of insurance.

§ 502. Access to records and property.

The department and its agent and employees shall:

- (1) Require any person subject to this chapter to establish and maintain such records, make such reports and furnish such information as the department may prescribe by rule or regulation.
- (2) Have access to, and require the production of, all books, papers, documents and other records which are required by any insurance law to be maintained by a person subject to this chapter.
- (3) Upon presenting appropriate identification to the owner, operator or individual in charge, be authorized to enter, during business hours and at other reasonable times, the premises, including places of storage, of any person for the purpose of inspecting, examining and duplicating any records, files or other documents and materials relating to the business of insurance which are required by law to be maintained, without the necessity of obtaining a warrant.

§ 503. Search warrants.

An agent or employee of the department may apply for a search warrant to any Commonwealth official authorized to issue a search warrant for the purposes of inspecting or examining any property, building, premises, place, book or record where the business of insurance is conducted. The warrant shall be issued upon probable cause. It shall be sufficient probable cause to show any of the following:

- (1) That the inspection or examination is pursuant to a general administrative plan to determine compliance with insurance laws.
- (2) That the agent or employee has reason to believe that a violation of insurance laws has occurred or may occur.

(3) That the agent or employee has been refused access to the property, building, premises or records of the person against whom the warrant is sought.

§ 504. Confidentiality of evidence.

(a) General rule.—The department’s papers, documents, reports or evidence relative to the subject of an investigation under the insurance laws of this Commonwealth shall not be subject to public inspection for as long as the department deems reasonably necessary for any of the following purposes:

- (1) Complete the investigation.
- (2) Protect the person investigated from unwarranted injury.
- (3) Be in the public interest.

(b) Subpoenas.—The department’s papers, documents, reports or evidence relative to the subject of an investigation under this chapter shall be subject to subpoena only when upon one of the following occurrences:

- (1) The department opens its records for public inspection.
- (2) The department consents.
- (3) After notice to the department and a hearing, the Commonwealth Court determines that the department would not be unnecessarily hindered by the subpoena.

(c) Construction of section.—Nothing in this section shall be construed to restrict the department’s ability to share information related to an investigation with criminal law enforcement authorities.

§ 505. Cause of action.

Any person injured or defrauded as a result of a violation of any law prohibiting insurance fraud where there has been criminal adjudication of guilt shall have a cause of action against the guilty party to recover from him compensatory damages, plus all reasonable investigation and litigation expenses, including attorney fees.

§ 506. Immunity.

(a) General rule.—In the absence of fraud or bad faith, no person or his employees or agents shall be subject to civil liability and no civil cause of action shall arise against any of them for any of the following:

- (1) Information relating to suspected fraudulent insurance acts furnished to or received from law enforcement officials or their agents and employees.
- (2) Information relating to suspected fraudulent insurance acts furnished to or received from other persons subject to the provisions of this chapter.
- (3) Information furnished in reports obtained by the department, the National Association of Insurance Commissioners or any other organization established to detect and prevent fraudulent insurance acts or by their agents, employees or designees.

(4) Information relating to suspected fraudulent insurance acts furnished to or received from the Fraud Information Exchange established by other provisions of law.

(b) Department employees.—In the absence of fraud or bad faith, the Insurance Commissioner and department employees shall not be subject to civil liability. No civil cause of action shall arise against any of them by virtue of the publication of a report or bulletin related to the official activities of the department.

(c) Other immunities unaffected.—Nothing in this section is intended to abrogate or modify a common law or statutory immunity heretofore enjoyed by any person.

§ 507. Interference with investigation.

Any person who threatens, interferes with, delays, obstructs or hampers in any manner department employees in performing the duties imposed upon them by law by illegally withholding, concealing or destroying evidence that is material and relevant to an investigation shall be subject to criminal and civil penalties, as follows:

(1) A person prosecuted and convicted under this section commits a misdemeanor of the second degree.

(2) Upon clear and convincing evidence of a violation set forth in a sworn affidavit by the department investigator involved, the department may order the immediate suspension of all insurance licenses of the person accused and schedule a hearing no more than 30 days from the date of suspension. If after the hearing the department finds a violation of this section, it may order the offender's insurance licenses suspended for up to one year and order a fine of \$2,500.

§ 508. Restitution.

After a hearing and adjudication, the department may order the payment of restitution to any person who is injured or defrauded as a result of an action or practice that violates 18 Pa.C.S. § 4117 (relating to insurance fraud).

§ 509. Fiduciary capacity of agents and brokers.

Every insurance agent and broker, acting as such in this Commonwealth, shall be responsible in a fiduciary capacity for all funds received or collected as insurance agent or broker and shall not, without the express consent of his or its principal, mingle any such funds with his or its own funds or with funds held by him or it in any other capacity. Nothing in this section shall be deemed to require the agent or broker to maintain a separate bank deposit for the funds of each such principal if and as long as the funds held for each principal are reasonably ascertainable from the books of account and records of the agent or broker.

§ 510. Theft by agents and brokers.

An insurance agent or broker who acts in negotiating a contract of insurance for an insurance company, association or exchange lawfully doing business in this Commonwealth, and who embezzles or fraudulently converts to his own use, or who, with intent to use or embezzle, takes, secretes, or otherwise disposes of, or fraudulently withholds, appropriates, lends, invests, or otherwise uses or applies, any money or substitutes for money received by him as such agent or broker, contrary to the instructions or without the consent of the company, association, or exchange for or on account of which the same was received by him, shall be guilty of theft.

§ 511. Acting as agent without license.

Any person transacting business within this Commonwealth as the agent of an insurance company, association or exchange, without a license as required by the act of May 17, 1921 (P.L. 789, No. 285), known as The Insurance Department Act of one thousand nine hundred and twenty-one, shall be subject to the civil and administrative penalty provisions of section 514 (relating to penalties) for each and every act in violation of this section.

§ 512. Acting as broker without license.

Any person transacting business as an insurance broker, within this Commonwealth, or soliciting insurance or transmitting for a partnership, copartnership, association, or corporation, other than himself or itself, an application for a policy of insurance, or offering or assuming to act in the negotiation of such insurance, or in any manner aiding in transacting an insurance business, or negotiating for or placing risks, or delivering policies or collecting premiums for policies which are effective in this Commonwealth, without a license as broker, or in the case of title insurance without being admitted to practice as an attorney-at-law or being licensed as a real estate broker or real estate agent, unless he or she or it be acting as a licensed agent and then only for the companies he, she or it is duly licensed by the Commonwealth to represent, shall be subject to the civil and administrative penalty provisions of section 514 (relating to penalties) for each and every act in violation of this section.

§ 513. Transacting business with unlicensed broker.

Any person or the agent of any person accepting applications or orders for insurance or securing any insurance business through anyone acting as a broker without a license, as provided in section 512 (relating to acting as broker without license) shall

be subject to the civil and administrative penalty provisions of section 514 (relating to penalties) for each and every act in violation of this section.

§ 514. Penalties.

(a) Civil or administrative penalty.—Upon satisfactory evidence of the violation of any of the provisions of sections 509 (relating to fiduciary capacity of agents and brokers), 510 (relating to theft by brokers), 511 (relating to acting as agent without license), 512 (relating to acting as broker without license) or 513 (relating to transacting business with unlicensed broker), the Commissioner may, in his discretion, pursue any one or more of the following courses of action regardless of whether such agent or broker was licensed or not licensed by the commissioner:

(1) Suspend or revoke or refuse to renew the license of such offending party or parties.

(2) Impose a civil penalty of not more than \$2,000 for each and every act in violation by the party or parties. Before the commissioner takes any action, he shall give written notice to the person accused of violating the law, stating specifically the nature of the alleged violation and fixing a time and place, at least ten days thereafter, when a hearing of the matter shall be held. After the hearing or upon failure of the accused to appear at the hearing, the commissioner shall impose any of the penalties as he deems advisable.

(b) Criminal penalty.—Any person violating the provisions of section 511, 512 or 513 commits a misdemeanor of the third degree and shall, upon conviction be sentenced to pay a fine of not more than \$1,000 for each and every violation, or, to imprisonment for a period of not more than six months, or both.

§ 515. Rules and regulations.

The department may promulgate rules and regulations to the extent necessary to carry out the provisions of this chapter.

CHAPTER 15

UNFAIR INSURANCE PRACTICES

Sec.

1501. Short title of chapter.

1502. Purpose of chapter.

1503. Definitions.

1504. Unfair practices.

1505. Immunity for statements or information.

1506. Powers of department.

1507. Administrative action.

1508. Injunction.

1509. Civil penalties.

1510. Exclusions.

§ 1501. Short title of chapter.

This chapter shall be known and may be cited as the Unfair Insurance Practices Act.

§ 1502. Purpose of chapter.

The purpose of this chapter is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Federal act of March 9, 1945 (Public Law 79-15, 15 U.S.C. § 1011 et seq.) by defining or providing for the determination of all practices in this Commonwealth which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting those practices.

§ 1503. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Insurance policy” or “insurance contract.” Any contract of insurance, indemnity, health care, suretyship, title insurance or annuity issued, proposed for issuance or intended for issuance by any person.

“Person.” Includes any reciprocal exchange, inter-insurer, Lloyd's insurer, fraternal benefit society as defined in section 4502 (relating to definitions), beneficial society or association, health maintenance organization as defined in section 7303 (relat-

ing to definitions), hospital plan corporation as defined in section 7501 (relating to definitions) and professional health service corporation as defined in section 7702 (relating to definitions) and any other legal entity engaged in the business of insurance, including agents, brokers and adjusters. For the purposes of this chapter, health care plans, fraternal benefit societies and beneficial societies shall be deemed to be engaged in the business of insurance.

“Renewal” or “to renew.” The issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer, such renewal policy to provide types and limits of coverage at least equal to those contained in the policy being superseded, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term with types and limits of coverage at least equal to those contained in the policy being extended. Any policy with a policy period or term of less than 12 months or any period with no fixed expiration date shall for the purpose of this chapter be considered as if written for successive policy periods or terms of 12 months.

§ 1504. Unfair practices.

(a) General rule.—A person shall not engage in this Commonwealth in any trade practice which is defined or determined to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance pursuant to this chapter.

(b) Unfair practices defined.—An unfair method of competition or an unfair or deceptive act or practice in the business of insurance is defined to be:

(1) Making, publishing, issuing or circulating any estimate, illustration, circular, statement, sales presentation or omission comparison which does any of the following:

(i) Misrepresents the benefits, advantages, conditions or terms of any insurance policy.

(ii) Misrepresents the premium overcharge commonly called dividends or share of the surplus to be received on any insurance policy.

(iii) Misrepresents the facts regarding the dividends or share of surplus previously paid on any insurance policy.

(iv) Misleads or misrepresents as to the financial condition of any person or as to the legal reserve system upon which any insurer operates.

(v) Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof.

(vi) Misrepresents for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion or surrender of any insurance policy.

(vii) Misrepresents for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy.

(viii) Misrepresents any insurance policy as being shares of stock.

(2) Making, issuing, publishing or circulating in any manner an advertisement, announcement or statement containing any representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business which is untrue, deceptive or misleading.

(3) Making, issuing, publishing or circulating any oral or written statement which is false or maliciously critical of or derogatory to the financial condition of any person and which is calculated to injure the person.

(4) Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.

(5) Knowingly filing with any supervisory or other public official, or knowingly making, issuing, publishing or circulating any false material statement of fact as to the financial condition of a person, or knowingly making any false entry of a material fact in any book, report or statement of any person or knowingly omitting to make a true entry of any material fact pertaining to the business of such person in any book, report or statement of such person.

(6) Issuing or delivering or permitting agents, officers or employees to issue or deliver agency company stock or other capital stock, or benefit certificates or shares in any corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Unfairly discriminating in any of the following ways:

(i) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(ii) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy, fees or rates charged for any policy or contract of insurance or in the benefits payable thereunder, in any of the terms or conditions of the contract or in any other manner.

(iii) Making or permitting any unfair discrimination between individuals of the same class and essentially the same hazard with regard to underwriting standards and practices or eligibility requirements by reason of race, religion, nationality or ethnic group, age, sex, family size, occupation, place of residence or marital status. The terms “underwriting standards and practices” and “eligibility rules” do not include the promulgation of rates if made or promulgated under Chapter 19 (relating to insurance rates).

(8) Except as otherwise provided by law, knowingly permitting or offering to make or making any contract of insurance or agreement as to such contract other than as plainly expressed in the insurance contract issued thereon, or paying or allowing or giving or offering to pay, allow or give, as inducement to such insurance, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration, inducement or anything of value which is not specified in the contract.

(9) Canceling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for 60 days or more or refusing to renew any policy unless:

(i) the policy was obtained through material misrepresentation, fraudulent statements or omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company;

(ii) there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued;

(iii) there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured;

(iv) the insured has failed to pay any premium when due whether the premium is payable directly to the company or its agent or indirectly under any premium finance plan or extension of credit; or

(v) the policy may be canceled on other grounds under regulations promulgated by the department.

(10) Any of the following acts in connection with the compromise or settlement of claims by insured arising under insurance policies, if committed or performed with such frequency as to indicate a business practice:

(i) Misrepresenting pertinent facts or policy or contract provisions relating to coverages at issue.

(ii) Failing to acknowledge and act promptly upon written or oral communications with respect to the claims.

(iii) Failing to adopt and implement reasonable standards for the prompt investigation of the claims.

(iv) Refusing to pay the claims without conducting a reasonable investigation based upon all available information.

(v) Failing to affirm or deny coverage of the claims within a reasonable time after proof of loss statements have been completed and communicated to the company or its representative.

(vi) Not attempting in good faith to effectuate prompt, fair and equitable settlements of the claims in which the liability of the company under the policy has become reasonably clear.

(vii) Compelling persons to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts due and recovered in actions brought by such persons.

(viii) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application.

(ix) Attempting to settle or compromise claims on the basis of an application which was altered without notice to or knowledge or consent of the insured of the alteration at the time the alteration was made.

(x) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made.

(xi) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants to induce or compel them to accept settlements or compromises less than the amount awarded in arbitration.

(xii) Delaying the investigation or payment of claims by requiring the insured, claimant or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.

(xiii) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage or under other policies of insurance.

(xiv) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(xv) Refusing payment of a claim solely on the basis of an insured's request to do so unless:

(A) the insured claims sovereign, diplomatic, military service or other immunity from suit or liability with respect to the claim;

(B) the insured is granted the right under the policy of insurance to consent to settlement of claims; or

(C) the refusal of payment is based upon the insurer's independent evaluation of the insured's liability based upon all available information.

(11) Failure of any person to maintain a complete record of all the complaints which it has received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint. For the purposes of this paragraph, the term "complaint" means any written communication primarily expressing a grievance.

(12) Making false or fraudulent statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee, commission, money or other benefit from any insurer, agent, broker or individual.

(13) Making, issuing, publishing or circulating an advertisement, announcement or statement offering permanent life insurance to persons 50 years of age or older without accompanying disclosures of any applicable reduction in the face amount payable and the period thereof.

(14) Requiring the payment of a fee, other than commissions specifically payable under the policy, as a condition precedent for the purchase of any insurance policy or the transacting of insurance business, unless specifically approved by the department.

(15) Requiring an insured, an applicant or a member of the insured's household to purchase a personal policy of insurance, or any other coverage, as a condition to the writing or renewal of another policy, without written approval by the department.

(16) Changing the nature and limits of coverage provided by an insurance policy unless requested by the insured prior to its effective date, without written approval by the department.

(c) Exclusions.—

(1) Subsection (b)(7) or (8) does not include within the definition of discrimination or rebates any of the following practices:

(i) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums out of surplus accumulated from nonparticipating insurance if any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(ii) In the case of life insurance policies issued on the industrial or debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(iii) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

(2) Subsections (b)(9) and (d) do not apply under any of the following circumstances:

(i) If the insurer has manifested its willingness to renew by issuing or offering to issue a renewal policy, certificate or other evidence of renewal, including the mailing of a renewal premium notice to the insured not less than 30 days in advance of the expiration date of the policy.

(ii) If the named insured has demonstrated by some overt action to the insurer or its agent other than mere nonpayment of premium that he wishes the policy

to be canceled or that he does not wish the policy to be renewed.

(iii) To any policy of insurance which has been in effect less than 60 days, including any notice of termination period, unless it is a renewal policy. Any declination of coverage within the 60-day period provided in this clause shall, for purposes of review by the department, be deemed a refusal to write and shall not be subject to the provisions of subsections (b)(9) and (d).

(d) Cancellation or nonrenewal of certain policies.—In the case of any policy of insurance covering owner-occupied private residential properties or personal property of individuals, the insured may, within ten days of the receipt by the insured of notice of cancellation or notice of intention not to renew, request in writing to the department that it review that action of the insurer. A cancellation or refusal to renew by any person shall not be effective unless a written notice of the cancellation or refusal to renew the policy is received by the insured either at the address shown in the policy or at a forwarding address. The notice shall:

(1) Be approved as to form by the department prior to use.

(2) State the date, not less than 30 days after the date of delivery or mailing, on which such cancellation or refusal to renew shall become effective.

(3) State the specific reason or reasons of the insurer for cancellation or refusal to renew.

(4) Advise the insured of his right to file a written request for review under this subsection, within ten days of the receipt of the notice.

(5) Advise the insured of his possible eligibility for insurance under the act of July 31, 1968 (P.L.738, No.233), known as The Pennsylvania Fair Plan Act, or the Pennsylvania Assigned Risk Plan.

(6) Advise the insured in a form commonly understandable of the provisions of paragraphs (2), (3) and (4) as they limit permissible time and reasons for cancellation.

(7) Advise the insured of the procedures to be followed in pursuing an appeal.

§ 1505. Immunity for statements or information.

There shall be no liability on the part of and no cause of action of any nature shall arise against the Insurance Commissioner, any insurer, the authorized representatives, agents and employees of the department or the insurer, or of any firm or person furnishing to the insurer information as to reasons for cancellation or refusal to renew for any statement made by them in complying with this chapter or for providing information pertaining thereto.

§ 1506. Powers of department.

(a) Investigations.—The department may monitor, examine and investigate the affairs of every person engaged in the business of insurance in this Commonwealth in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by this chapter.

(b) Records and reports.—In order to carry out the purposes of this chapter, the department shall require every person engaged in the business of insurance to make, keep and preserve, format and make available to the department, for inspection, examination or duplication, such records and reports as the department may prescribe, by regulation, as necessary or appropriate for the enforcement of this chapter.

§ 1507. Administrative action.

(a) Notice and hearing.—If, as a result of investigation, the department has good cause to believe that any person is violating any provision of this chapter, the department shall send notice of the violation by registered mail to the person believed to be in violation. The notice shall state the time and place for hearing which shall not be less than 30 days from the date of the notice. At the

hearing, the person shall have an opportunity to be heard and to show cause why an order should not be made by the commissioner to cease and desist from acts constituting a violation of this chapter and why administrative penalties should not be assessed.

(b) Intervention.—Upon good cause shown, the commissioner shall permit any person to intervene, appear and be heard at the hearing, either in person or by counsel.

(c) Procedure.—The department may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence and subpoena witnesses, compel their attendance and require the production of books, papers, records or other documents which it deems relevant to the hearing. The department shall cause a record of all evidence and all proceedings at the hearing to be kept.

(d) Order.—Following the hearing, the commissioner shall issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required of the person charged. The commissioner shall send a copy of the order to those persons participating in the hearing.

(e) Administrative penalty.—Upon a determination that this chapter has been violated, the commissioner may issue an order requiring the person to cease and desist from engaging in the violation or, if such violation is a method of competition, act or practice defined in section 1504 (relating to unfair practices), the commissioner may suspend or revoke the person's license. Following a hearing and adjudication, the commissioner may order the payment of restitution to any person who is injured as a result of an action or practice which violated any provision of this chapter. An order of restitution issued by the commissioner following a hearing and adjudication shall be enforceable by any court of common pleas in this Commonwealth.

§ 1508. Injunction.

If the alleged violator fails to comply with an order of the department following hearing to cease and desist from unfair methods of competition or an unfair or deceptive act or practice, the department may cause an action for injunction to be filed in the Commonwealth Court or the court of the county in which the violation occurred.

§ 1509. Civil penalties.

In addition to any penalties imposed pursuant to this chapter, the commissioner or court may impose the following civil penalties:

(1) For each violation of this chapter, a penalty of not more than \$5,000.

(2) For each violation of an order issued by the department pursuant to section 1507(e) (relating to administrative action) while such order is in effect, a penalty of not more than \$10,000 for each violation.

§ 1510. Exclusions.

Health care plans administered by joint boards of trustees pursuant to section 302 of the Labor Management Relations Act of 1947 (61 Stat. 157, 29 U.S.C. § 186) and health care plans administered by the employer pursuant to collective bargaining agreements which pay benefits from the assets of the trust or the funds of the employer as opposed to payments through an insurance company are not subject to this chapter.

CHAPTER 19

INSURANCE RATE REVIEW PROCEDURES

Sec.

1901. Short title of chapter.

1902. Scope of chapter.

1903. Furnishing additional information.

1904. Waiting period for filings.

1905. Action by department on rate filings within waiting period.

1906. Review of action of department taken without hearing.

1907. Action by department on rate filings after waiting period.

1908. Deemed approvals.

1909. Hearing procedures.

1910. Rules and regulations.

§ 1901. Short title of chapter.

This chapter shall be known and may be cited as the Insurance Rate Review Procedures Act.

§ 1902. Scope of chapter.

This chapter applies to all rate filings, including deviation filings, required by sections 616 and 621.4 and Articles VI(d) and VII of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, the act of June 11, 1947 (P.L.538, No.246), known as The Casualty and Surety Rate Regulatory Act, and the act of June 11, 1947 (P.L.551, No.247), known as The Fire, Marine and Inland Marine Rate Regulatory Act.

§ 1903. Furnishing additional information.

When a rate filing is not accompanied by sufficient information to allow the department to determine whether the filing meets the requirements of the applicable statutes governing the establishment of rates, the department may require the insurer or rating organization making the filing to furnish additional information. A request for additional information under this subsection shall not operate to extend any time period set forth in section 1904 (relating to waiting period for filings).

§ 1904. Waiting period for filings.

(a) General rule.—Except as otherwise provided in subsection (b), no rate filing to which this chapter applies may become effective prior to the expiration of a waiting period of 30 days from the date the filing is received by the department. This 30-day period may be extended an additional 30 days by the department upon written notice to the insurer or rating organization making the filing.

(b) Exceptions.—The waiting period and extensions thereof required by subsection (a) shall not apply in the following circumstances:

(1) When an insurer or rating organization makes written application, the department may authorize a filing or part thereof which has been reviewed to become effective prior to the expiration of the waiting period or any extension thereof as provided in subsection (a).

(2) Any rate filing made with respect to a surety or guaranty bond required by law or by court or executive order or by order, rule or regulation of a public body, not covered by a previous filing, or any filing with respect to a contract or a policy covering any risk or kind of insurance or subdivision thereof for which classification rates do not generally exist in the industry, or which by reason of rarity or peculiar characteristics does not lend itself to normal classification or rating procedure, shall become effective when filed and shall be deemed to meet the requirements of this act and the act of June 11, 1947 (P.L.538, No.246), known as The Casualty and Surety Rate Regulatory Act.

(3) Under such rules and regulations as it shall adopt, the department may, by written order, suspend or modify the requirement of rate filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. These orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. Nothing in this paragraph shall be construed as prohibiting the department from making such examination as deemed advisable to ascertain whether any rates which are subject to The Casualty and Surety Rate Regulatory Act, and the act of June 11, 1947 (P.L.551, No.247), known as The Fire, Marine and Inland Marine Rate Regulatory Act, meet the standards of section 3(d) of The Casualty and Surety Rate Regulatory Act and section 3(a)(2) of The Fire, Marine and Inland Marine Rate Regulatory Act.

(4) Specific inland marine rates on risks specially rated by a rating organization shall become effective when filed and shall be deemed to meet the requirements of this chapter and The Fire, Marine and Inland Marine Rate Regulatory Act until such time as the department reviews the filing and so long thereafter as the filing remains in effect.

(5) Any special rate as provided in section 3(a)(1) of The Fire, Marine and Inland Marine Rate Regulatory Act on a contract or policy covering other than inland marine risks shall be deemed to meet the requirements of this act and The Fire, Marine and Inland Marine Rate Regulatory Act until such time as the department reviews the filing and so long thereafter as the filing remains in effect.

(6) Upon the written consent of the insured stating his reasons therefor, filed and approved by the department, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk. The rate shall become effective when such consent is filed and shall be deemed to meet the requirements of this chapter and other applicable statutes governing the establishment of rates until such time as the department reviews the filing and so long thereafter as the filing remains in effect.

§ 1905. Action by department on rate filings within waiting period.

(a) General rule.—Within the waiting period or any extension thereof as provided in section 1904(a) (relating to waiting period for filings), the department may, by written notice, approve or disapprove the rate filing or schedule a formal administrative hearing on the filing. If a rate filing is approved, it may become effective upon the expiration of the waiting period and any extension thereof as provided in section 1904(a) or upon the effective date specified in the filing, whichever is later. If a rate filing is disapproved, the department shall state in what respects the filing or part thereof fails to meet the requirements of this chapter or other applicable law.

(b) Effective date pending hearing.—If a rate filing is scheduled for a formal administrative hearing under this section, the filing may not become effective until an adjudication is issued. An adjudication shall be issued within 60 days after the close of the hearing.

§ 1906. Review of action of department taken without hearing.

Any insurer or rating organization aggrieved by any order or decision of the department made without a hearing may, within 30 days after notice of the order to the insurer or organization, make written request to the commissioner for a hearing thereon. The commissioner shall schedule a hearing within 20 days after receipt of the request and shall give not less than ten days' written notice of the time and place of the hearing. Within 30 days after the close of the hearing or within such reasonable time extension as the commissioner shall fix, the commissioner shall affirm, reverse or modify his previous action, specifying his reasons therefor.

§ 1907. Action by department on rate filings after waiting period.

If, at any time after the waiting period or extension thereof as provided in section 1904(a) (relating to waiting period for filings), the department finds that a rate filing does not meet the requirements of this chapter or other applicable statutes governing the establishment of rates or upon application by a person, other than the insurer or rating organization that made the filing, aggrieved by a rate filing for which the waiting period has expired, the department shall, after a hearing held upon not less than ten days' written notice to every insurer or rating organization which made the filing, specifying the matters to be considered at the hearing, issue an order specifying in what respects it finds that the filing fails to meet the requirements of this chapter or other applicable statutes governing the establishment of rates and stating when, within a reasonable period thereafter, the filing

or portions thereof shall be deemed no longer effective. The order shall be sent to every affected insurer and rating organization. The order can affect contracts and policies made or issued prior to the expiration of the period set forth in the order, such as by requiring adjustments, retroactive to the dates on which the policies or contracts were made or issued, of premium charges determined to be excessive or unfairly discriminatory.

§ 1908. Deemed approvals.

A rate filing may be deemed to meet the requirements of this chapter and other applicable statutes governing the establishment of rates unless disapproved or scheduled for a formal administrative hearing by the department within the waiting period or any extensions thereof as provided in section 1904(a) (relating to waiting period for filings). The filing shall not become effective unless the department receives written notice of the insurer's or rating organization's intent to exercise the right granted under this section at least ten calendar days prior to the effective date.

§ 1909. Hearing procedures.

All hearings shall be conducted in accordance with Title 2 (relating to administrative law and procedure).

§ 1910. Rules and regulations.

The department may adopt such rules and regulations as are reasonably necessary to carry out the purposes of this chapter. Rules and regulations shall be promulgated in conformity with the provisions of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, and the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

CHAPTER 25 INSURANCE FRAUD

Sec.

2501. Purpose of chapter.

2502. Definitions.

2503. Anti-fraud plans.

2504. Reporting of insurance fraud.

2505. Fraud Information Exchange.

2506. Notice on application for insurance and claim forms.

2507. Rules and regulations.

§ 2501. Purpose of chapter.

Because of the high incidence of fraud and its attendant cost to the insurance industry and policyholders, the General Assembly finds that there is a need for all insurers licensed to do business in this Commonwealth to adopt specific plans to investigate and report fraud and to share in the establishment of a reliable centralized data base to be accessed by insurers, law enforcement authorities and the department for the purpose of identifying and prosecuting persons suspected of committing insurance fraud.

§ 2502. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicate otherwise:

"Exchange." The Fraud Information Exchange created by this chapter.

§ 2503. Anti-fraud plans.

(a) Filing of plans.—For the purpose of reviewing, investigating, auditing and reporting the incidence of insurance fraud, each insurer licensed to do business in this Commonwealth shall institute and maintain an anti-fraud plan. The anti-fraud plan of insurers licensed on the effective date of this chapter shall be filed with the department on or before December 31, 1990. All insurers licensed after the effective date of this chapter shall file within six months of licensure. All changes to the anti-fraud plan shall be filed with the department within 30 days after it has been modified.

(b) Content of plans.—The anti-fraud plans of each insurer shall establish specific procedures:

(1) To prevent insurance fraud, including internal fraud involving employees or company representatives, fraud resulting from misrepresentation on applications for insurance coverage, and claims fraud.

(2) To review all claims in order to detect evidence of possible insurance fraud and to investigate claims where fraud is suspected.

(3) To report fraud to appropriate law enforcement agencies and to cooperate with such agencies in their prosecution of fraud cases.

(4) To undertake civil actions against persons who have engaged in fraudulent activities.

(5) To report fraud-related data to appropriate index bureaus.

(6) To ensure against cost being incurred as a result of insurance fraud and ensure that any such cost is not included in any rate base affecting the premiums of insurance consumers.

(c) Certification and administration of plans.—All plans shall be certified to the department by a senior executive officer of the insurer responsible for the formulation and administration of all components of the anti-fraud plans.

(d) Review by department.—Anti-fraud plans shall be filed with the department and implemented. If, after review, the department finds that the anti-fraud plan does not comply with subsection (b), the anti-fraud plan may be disapproved. Notice of disapproval shall include a statement of the specific reasons for such disapproval. Any plan disapproved by the department must be refiled within 60 days of the date of the notice of disapproval.

(e) Audit of insurance companies.—The department may audit insurers to ensure compliance with anti-fraud plans. The power of the department under this subsection shall include, but shall not be limited to, the power to:

(1) Audit the books and records of any insurer or those of its agents, including managing general agents.

(2) Interview insurer employees.

(3) Take any other reasonable steps to ensure effective insurer compliance with the plan.

(f) Report on anti-fraud activities.—On or before December 31, 1990, and each year thereafter, all insurers licensed to do business in this Commonwealth shall provide to the department a summary report on actions taken under the plan to prevent and combat insurance fraud, including, but not limited to, measures taken to protect and ensure the integrity of electronic data-processing-generated data and manually compiled data, statistical data on the amount of resources committed to combating fraud, and the amount of fraud identified and recovered during the reporting period.

(g) Penalty for late or noncompliant filings and failure to administer plan procedures.—Insurers that fail to file timely or complying anti-fraud plans are subject to the penalty provisions of section 320 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921. Insurers that fail to follow the anti-fraud plan shall be subject to a civil penalty, not to exceed \$100,000, at the discretion of the department after consideration of all relevant factors, including the willfulness of any violation.

(h) Confidentiality of plans and reports.—The anti-fraud plans and reports which insurers filed with the department and any reports or materials related to such reports are not public records and shall not be subject to public inspection.

§ 2504. Reporting of insurance fraud.

Every insurer licensed to do business in this Commonwealth, and its employees, agents, brokers, motor vehicle physical damage appraisers and public adjusters, or public adjuster solicitors, shall be required to report the incidence of suspected insurance fraud to Federal, State or local criminal law enforcement authorities. Licensed insurance agents and physical damage

appraisers may elect to report suspected fraud through the affected insurer with which they have a contractual relationship. All reports of insurance fraud to law enforcement authorities shall be made in writing, and copies of the report shall be sent simultaneously to the Fraud Information Exchange. Where insurance fraud involves agents, brokers, motor vehicle physical damage appraisers, public adjusters or public adjuster solicitors, a copy of the report shall also be sent to the department.

§ 2505. Fraud Information Exchange.

(a) Establishment.—There is hereby created an unincorporated, nonprofit exchange, to be known as the Fraud Information Exchange, which shall consist of all insurers licensed to do business in this Commonwealth. The headquarters of the exchange shall be located in a place within this Commonwealth to be determined by the board of directors. Every insurer licensed to do business in this Commonwealth shall be a member of the exchange and shall be bound by the plan of operation of the exchange as a condition of authority to transact the business of insurance in this Commonwealth. Any insurer licensed to transact insurance after the effective date of this chapter shall become a member of the exchange upon receiving such license, and the determination of any such insurer's participation in the exchange shall be made as of the date of such membership in the same manner as for all other members of the exchange. A currently existing insurance entity may serve as the exchange as long as it meets all the requirements of this chapter and agrees to be subject to the jurisdiction of this Commonwealth.

(b) Board of directors.—The exchange shall be governed by a board of directors, the composition of which shall be sufficiently large and diverse to fairly represent the varying size and different insurance interests of the exchange membership and which shall be detailed in the plan of operation. The board shall elect a chairman from its membership and shall meet at least semiannually or as often as the chairman or the plan of operation may require or at the request of the department. All meetings of the board shall be held in this Commonwealth. Minutes shall be kept of all meetings. Copies of the minutes shall be sent to the department within five business days following the meeting. Written notice setting forth the meeting agenda shall be provided to all directors and the department at least five days prior to the date of the meeting. The Insurance Commissioner, or his designee, may attend any meeting of the exchange.

(c) Powers of board.—The board shall have and exercise all powers of the exchange not reserved to the members by the plan of operation or as otherwise provided in this chapter.

(d) Call for organization.—Within 60 days of the effective date of this chapter, the department shall call on a representative number of insurers to convene an organizational meeting. The meeting will be used to select a board of directors.

(e) Plan of operation.—Within 120 days after the organizational meeting, the board shall file with the department a plan of operation consistent with the provisions of this chapter. The plan of operation shall include, but not be limited to, the following:

(1) A description of the exchange's organizational makeup, membership, staff complement, physical location and self-funding methodology.

(2) Detailed procedures for all members to regularly report fraud-related data to the exchange.

(3) Policies and procedures governing insurer and law enforcement agency access to exchange data, information and reports.

(4) A detailed accounting of how information on insurance fraud filed by insurers will be organized, collated and maintained.

(5) Procedures for how the exchange will share data and information with the nationally organized Life and Health Index Bureau and Property Insurance Loss Register.

(6) A detailed description of the types of fraud-related data that insurers are required to report to the exchange, which shall include, but not be limited to, the following:

(i) Location of claim, application or fraud activity.

(ii) Names and addresses of parties involved, including legal representation.

(iii) Names and addresses of witnesses.

(iv) Names and addresses of third-party payees involved.

(7) Any other information, data, procedure or program relating to insurance fraud as may be required by the department or determined necessary to facilitate the reporting and use of information and data.

The board of directors may amend the plan of operation at any time and file the amendment with the department.

(f) Insurer reporting requirements.—All members of the exchange shall timely report to the exchange all data and information relating to suspected fraud in applications for insurance and in claims filed.

(g) Access to exchange.—The department, any law enforcement agency and any member insurer shall have access to any data and information maintained by the exchange. Information received by the department and the exchange shall not be matters of public record and shall not be revealed to any other person except as authorized by this chapter.

(h) Inquiries.—Each insurer shall respond promptly to any request made by the exchange with respect to any of the data or information to be reported as set forth in the plan of operation.

(i) Annual report on anti-fraud activities.—On or before December 31, 1990, and on or before December 31 of each year thereafter, the exchange, on behalf of member insurers, shall file with the department an annual report on the nature and effect of insurance fraud in this Commonwealth. The report shall present statistical data on fraud in this Commonwealth for all lines of insurance written in this Commonwealth. The department may prescribe by regulation the format, organization and content of the report.

§ 2506. Notice on application for insurance and claim forms.

Within 180 days of the effective date of this section, all applications for insurance and claim forms shall contain a statement that clearly states in substance the following:

Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing any false, incomplete or misleading information is guilty of a felony of the third degree.

§ 2507. Rules and regulations.

The department may promulgate such rules and regulations as may be necessary to carry out this chapter.

CHAPTER 59

MOTOR VEHICLE INSURANCE CANCELLATION,
NONRENEWAL OR REFUSAL TO WRITE

Sec.

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5902. General provisions.

5903. Insufficient grounds for failure to insure.

5904. Grounds for cancellation.

5905. Premium increase or surcharge.

5906. Notice of refusal.

5907. Exclusions.

5908. Information regarding refusal to insure.

5909. Request for review.

5910. Review procedure.

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§ 5901. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Insurer.” Any insurance entity authorized to transact the business of automobile insurance in this Commonwealth.

“Nonpayment of premium.” Failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy, or any installment of the premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

“Policy.” A policy of motor vehicle insurance delivered or issued for delivery in this Commonwealth insuring a natural person as named insured or one or more related individuals resident of the same household, and under which the insured vehicles therein designated are of the following types only:

(1) A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers and is not rented to others.

(2) Any other four-wheel motor vehicle with a gross weight not exceeding 9,000 pounds which is not principally used in the occupation, profession or business of the insured other than farming.

“Renewal” or “to renew.” The issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer, if the renewal policy provides types and limits of coverage at least equal to those contained in the policy being superseded, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term with types and limits of coverage at least equal to those contained in the policy being extended.

§ 5902. General provisions.

(a) Term of certain policies.—Any policy with a policy period or term of less than 12 months or any period with no fixed expiration date shall for purposes of this chapter be considered as if written for successive policy periods or terms of 12 months.

(b) Applicability to policies.—This chapter applies only to that portion of a policy providing bodily injury and property damage liability, comprehensive and collision coverages and to the provisions in the policy relating to first party benefits, extraordinary medical benefits and uninsured/underinsured motorists coverage.

§ 5903. Insufficient grounds for failure to insure.

(a) Prohibited grounds.—An insurer shall not cancel or refuse to write or renew a policy for one or more of the following reasons:

- (1) Age.
- (2) Residence or operation of a motor vehicle in a specific geographic area.
- (3) Race.
- (4) Color.
- (5) Creed.
- (6) National origin.
- (7) Ancestry.
- (8) Marital status.
- (9) Sex.
- (10) Lawful occupation (including military service).
- (11) The refusal of another insurer to write a policy, or the cancellation or refusal to renew an existing policy by another insurer.

(12) Illness or permanent or temporary disability, where the insured can medically document that the illness or disability will not impair his ability to operate a motor vehicle. Failure to provide this documentation shall be proper reason for the insurer to amend the policy of the named insured to exclude the disabled insured from coverage under the policy while operating a motor vehicle after the effective date of the policy amendment, but shall not be proper reason to cancel or refuse to write or renew the policy. This paragraph does not affect the excluded individual's eligibility for coverage under

the named insured's policy for any injury sustained while not operating a motor vehicle. Illness or permanent or temporary disability on the part of any insured shall not be proper reason for canceling the policy of the named insured.

(13) Any accident which occurred under any of the following circumstances:

(i) The motor vehicle was lawfully parked, except that if the vehicle rolled from the parked position, any accident shall be charged to the person who parked the auto.

(ii) The applicant, owner or other resident operator was reimbursed by, or on behalf of, a person who was responsible for the accident or had a judgment against such a person.

(iii) The vehicle was struck in the rear by another vehicle and the applicant or other resident operator was not convicted of a moving traffic violation in connection with the accident.

(iv) The operator of the other vehicle involved in the accident was convicted of a moving traffic violation, and the applicant or resident operator was not convicted of a moving traffic violation in connection with the accident.

(v) The vehicle operated by the applicant or any resident operator was struck by a “hit-and-run” vehicle, if the accident was reported to the proper authority within 24 hours by the applicant or resident operator.

(vi) The accident involved damage by contact with animals or fowl.

(vii) The accident involved physical damage caused by flying gravel, missiles or falling objects.

(viii) The accident occurred when using the vehicle in response to any emergency if the operator of the vehicle at the time of the accident was a paid or volunteer member of any police or fire department, first aid squad or any law enforcement agency, but not after the automobile ceased to be used in response to the emergency.

(ix) The accident occurred more than 36 months prior to the later of the inception of the insurance policy or the upcoming anniversary date of the policy.

(14) Any claim under the comprehensive portion of the policy unless the loss was intentionally caused by the insured.

(b) Single recent accident.—An insurer shall not refuse to renew a policy on the basis of any one accident occurring within the 36-month period prior to the upcoming anniversary date of the policy. An insurer shall not refuse to renew a policy on the basis of any accident where the aggregate cost to the insurer for each accident of repair or replacement of property or bodily injury is less than the dollar amount which would permit a surcharge under section 5905(d) (relating to premium increase or surcharge).

(c) Terminated agent within one year.—For a period 12 months after notice of termination given to an agent, an insurer shall not cancel or refuse to renew existing policies written through the terminated agent because of the termination, unless the action could have been taken had the agency relationship continued. An insurer shall pay commissions for the policies that are continued or renewed through the terminated agent, except where:

(1) the insurer retained ownership of the expirations of such policies; or

(2) the agent has misappropriated funds or property of the insurer, has failed to remit to the insurer funds due it promptly upon demand, has been terminated for insolvency, abandonment or gross and willful misconduct or has had his license suspended or revoked.

(d) Terminated agent after one year.—Subsequent to the 12-month period after notice of termination given to an agent, an

insurer shall not cancel or refuse to renew existing policies written through the terminated agent without offering to cover the insured on a direct basis or refer the insured to one or more new agents if the terminated agent could not find a suitable insurer acceptable to the policyholder. The offer need not be made if the insurer could have canceled or failed to renew the policy had the agency relationship continued. If the insurer retains ownership of the expirations of the policies, the insurer is not required to offer a new agent.

(e) Accumulation of points.—An insurer shall not refuse to renew a policy for two or fewer moving violations in any jurisdiction or jurisdictions during a 24-month period when the operator's record indicates that the named insured presently bears five points or fewer under Title 75 (relating to vehicles). However, this subsection does not apply under the following conditions:

(1) All five points are incurred from one violation.

(2) Except as provided in paragraph (3), the driver's license or motor vehicle registration of the named insured has been suspended or revoked at any time during the 24-month period.

(3) The driver's license has been suspended under 75 Pa.C.S. § 1533 (relating to suspension of operating privilege for failure to respond to citation), unless the insured is able to produce proof that he has responded to all citations and paid all fines and penalties imposed under that section and that he has done so on or before the termination date of the policy.

(f) Other insureds.—The applicability of subsection (e) to an individual, other than the named insured, who either is a resident in the same household or who customarily operates a vehicle insured under the policy shall be proper reason for the insurer excluding the individual from coverage under the policy, but not for refusing to renew the policy.

(g) Risk of loss to insurer.—An insurer shall not refuse to renew a policy for any reason which does not constitute a substantial and material increase in the risk of loss to insurer.

(h) Regulations.—The department shall adopt appropriate regulations to implement and enforce this section.

§ 5904. Grounds for cancellation.

An insurer shall not cancel a policy except for one or more of the following reasons:

(1) Nonpayment of premium.

(2) The driver's license or motor vehicle registration of the named insured has been under suspension or revocation at any time during the policy period. The applicability of this reason to one who either is a resident in the same household or who customarily operates a vehicle insured under the policy shall be proper reason for the insurer excluding the individual from coverage under the policy, but not for canceling the policy.

(3) A determination that the insured has concealed a fact, has made an allegation contrary to fact or has made a misrepresentation of a fact if the fact concealed, alleged or misrepresented was material to the acceptance of the risk by the insurer.

§ 5905. Premium increase or surcharge.

(a) General rule.—An insurer shall not increase an individual insured's premium or assess a premium surcharge on the basis of any moving traffic violation records, any revocation or suspension records or any accident records, if any of the following occurs:

(1) The insured establishes that the records are erroneous or inaccurate.

(2) The citation is imposed under 75 Pa.C.S. § 1533 (relating to suspension of operating privilege for failure to respond to citation) and the insured is able to produce proof that he has responded to the citation and paid the fines and penalties imposed under that section. An increase or surcharge imposed prior to the date when an insured provides

this proof shall terminate as of the date the insured responded to the citation which is the subject of the increase or surcharge.

(b) Action by insured to terminate.—At the time an increase or surcharge is applied, the insurer shall notify the insured that the increase or surcharge will be terminated if the insured is able to provide the insurer with proof that the insured has responded to all citations imposed under 75 Pa.C.S. § 1533 and paid any fines and penalties imposed under that section.

(c) Statement of components of premium.—All insurers shall provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of a surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance or as a result of any other factors.

(d) Cost to insurer.—If an insurer offering automobile liability and physical damage coverages bases its rates in whole or in part upon a surcharge, rate penalty or driver record point assignment scheme, the following shall apply:

(1) A surcharge, rate penalty or driver record point assignment shall not be made if the aggregate cost to the insurer of repair or replacement of property or bodily injury is determined to be less than \$500 in excess of any self-insured retention or deductible applicable to the named insured.

(2) A surcharge, rate penalty or driver record point assignment shall not be made if the insurer is reimbursed by or on behalf of the named insured or other resident operator for at least 60% of the total amount of the paid claim received through subrogation or from a settlement or judgment against the individual responsible for the accident.

The department, once every three years, shall adjust the \$500 cap or limit on property or bodily injury surcharge, rate penalty or driver record point assignment as referenced in this subsection relative to changes in the components of the consumer price index-urban to measure seasonally adjusted changes in automobile maintenance and repair costs and shall make such adjustments to the cap or limit as shall be necessary to maintain the same rate or change in the cap or limit as has occurred in the consumer price index-urban components. The adjustments may be rounded off to the nearest \$50 figure.

§ 5906. Notice of refusal.

A cancellation or refusal to renew by an insurer of a policy shall not be effective unless the insurer delivers or mails to the named insured at the address shown in the policy a written notice of the cancellation or refusal to renew. The notice shall:

(1) Be approved as to form by the department prior to use.

(2) State the date, not less than 60 days after the date of such mailing or delivering, on which the cancellation or refusal to renew shall become effective, except that the effective date may be 15 days from the date of mailing or delivery when it is being canceled or not renewed for the reasons set forth in section 5904(1) or (2) (relating to grounds for cancellation).

(3) State the specific reasons of the insurer for cancellation or refusal to renew.

(4) Advise the insured of his right to request in writing, within 30 days of the mailing of the notice of cancellation or intention not to renew, that the department review the action of the insurer.

(5) Either in the notice or in an accompanying statement, advise the insured of his possible eligibility for insurance through the automobile Assigned Risk Plan.

(6) Advise the insured that he must obtain compulsory automobile insurance coverage if he operates or registers a motor vehicle in this Commonwealth, that the insurer is notifying the Department of Transportation that the insurance is being canceled or not renewed, and that the insured shall

notify the Department of Transportation that he has replaced such coverage.

(7) Clearly state that when coverage is to be terminated due to nonresponse to a citation imposed under 75 Pa.C.S. § 1533 (relating to suspension of operating privilege for failure to respond to citation) or nonpayment of a fine or penalty imposed under that section, coverage shall not terminate if the insured provides the insurer with proof that the insured has responded to all citations and paid all fines and penalties and that he has done so on or before the termination date of the policy.

§ 5907. Exclusions.

This chapter does not apply:

(1) If the insurer has manifested its willingness to renew by issuing or offering to issue a renewal policy, certificate or other evidence of renewal at the annual renewal date, or has manifested such intention by any other means.

(2) If the named insured has demonstrated by some overt action to the insurer or its agent that he wishes the policy to be canceled or that he does not wish the policy to be renewed.

(3) To any policy which has been in effect less than 60 days, unless it is a renewal policy, except that no insurer shall decline to continue in force such a policy on the basis of the grounds set forth in section 5903(a) (relating to insufficient grounds for failure to insure) and except that, if an insurer cancels a policy in the first 60 days, the insurer shall supply the insured with a written statement of the reason for cancellation as set forth in section 5906 (relating to notice of refusal).

(4) To any policy issued under an automobile assigned risk plan.

(5) To any policy insuring commercial automobiles.

(6) To any policy covering the hazards of operation of a garage, automobile sales agency repair shop, service station or public parking place.

§ 5908. Information regarding refusal to insure.

(a) Immunity.—A cause of action shall not arise against the department, any insurer, the authorized representatives, agents and employees of either or any firm, person or corporation furnishing to the insurer information as to reasons for cancellation or refusal to write or renew for making any statement in complying with this chapter or for providing information pertaining thereto.

(b) Notification to insured.—The insurer shall furnish the insured the notification required by the Fair Credit Reporting Act (Public Law 91-508, 15 U.S.C. § 1681 et seq.) at the time of the cancellation or refusal to write or renew.

(c) Records of insurer.—Each insurer shall maintain records of the numbers of cancellations and refusals to write or renew policies and the reasons therefor and shall supply to the department such information therefrom as it may request.

§ 5909. Request for review.

(a) Cancellation or failure to renew.—Any insured may within 30 days from the date of mailing of notice of cancellation or notice of intention not to renew request the department in writing to review the action of the insurer.

(b) Refusal to write policy.—Any applicant for a policy who is refused the policy by an insurer shall be given a written notice of refusal to write by the insurer, which shall state the specific reasons for the refusal on a form approved by the department. Within 30 days of the receipt of the notice, the applicant may request the department in writing to review the action of the insurer.

(c) Options to insured.—If requested by the applicant, an agent for an insurer shall submit an application for automobile insurance to the insurer or provide the applicant written notice of the reasons for refusal to write as provided in subsection (b).

§ 5910. Review procedure.

(a) Notice of hearing.—If, upon receipt of a request for review or if as a result of investigation, the department has good cause to believe that an insurer is violating this chapter, the department shall notify the insurer thereof and shall review the matter to determine whether the cancellation or refusal to renew or to write was in violation of this chapter. The department shall within 40 days of the receipt of the request issue a written order either directing that the policy be written or reinstated or upholding the cancellation or refusal to renew or to write. If either of the parties disputes the department's order, within ten days of the mailing of the order, the party may make a written request for a formal hearing to the commissioner or his designee specifically setting forth the reasons for the hearing. In the event a hearing is granted, the commissioner or his designee shall immediately issue notice of the hearing, stating the time and place, which shall not be less than 30 days from the date of the notice.

(b) Hearing procedure.—The hearing shall be held at the time and place fixed for the hearing in the notice. The insurer may show cause why an order should not be made by the commissioner or his designee to cease and desist from acts constituting a violation of this chapter. Upon good cause shown, the commissioner or his designee shall permit any person to intervene, appear and be heard at the hearing, in person or by counsel. The department may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence and subpoena witnesses, compel their attendance and require the production of books, papers, records or other documents which it deems relevant to the hearing. The department shall cause a record to be kept of all evidence and all proceedings at the hearing.

(c) Order.—Following the hearing, the commissioner or his designee shall issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The commissioner or his designee shall send a copy of the order to the persons participating in the hearing. In the case of a cancellation of or refusal to renew a policy, the policy shall remain in effect until the conclusion of the review, or hearing if granted, or the date referred to in section 5906(2) (relating to notice of refusal), whichever is later, except for review of cancellations by reason of nonpayment of premium, in which case the policy shall terminate as of the date provided in the notice under section 5906(2), unless the cancellation or refusal to renew is upheld or the policy reinstated.

(d) Restitution of premium.—After a hearing and adjudication, the commissioner or his designee may order the payment of restitution of premium to any person who is injured as a result of an insurer's actions in canceling, refusing to renew or refusing to write a policy.

(e) Applicability of Title 2.—The decision of the commissioner or his designee following a hearing shall be subject to appeal in accordance with 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

§ 5911. Powers of department.

(a) Regulations.—The department shall promulgate regulations necessary for the administration of this chapter.

(b) Filing fee.—The department may provide in these regulations for the establishment of a filing fee to accompany the request for review. If the department decides the appeal in favor of the insured, the filing fee shall be returned immediately and the fee shall be paid by the insurer.

(c) Cease and desist order.—Upon a determination that this chapter has been violated, the department may issue an order requiring the insurer to cease and desist from engaging in the violation, and may enforce the order by an action for injunction, regardless of whether the insurer is licensed by the department.

§ 5912. Penalty.

Any individual or insurer who violates this chapter is subject to a civil penalty, which shall not exceed \$5,000.

Section 7. Section 1306 of Title 75 of the Pennsylvania Consolidated Statutes, repealed in part April 26, 1989 (P.L. 13, No. 4), is amended to read:

§ 1306. Grounds for refusing registration.

The department shall refuse registration or renewal or transfer of registration when any of the following circumstances exists:

(1) The applicant is not entitled to registration under the provisions of this chapter.

(2) The applicant has at registration or titling neglected or refused to furnish the department with the information required on the appropriate official form, or any reasonable additional information required by the department.

(3) The department has reasonable grounds to believe that the application contains false or fraudulent information, or that the vehicle is stolen, which fact the department shall ascertain by reference to the stolen vehicle file required to be maintained under section 7114 (relating to records of stolen vehicles), or that the granting of registration would constitute a fraud against the rightful owner or other person having a valid lien upon the vehicle.

(4) The fees required by law have not been paid.

(5) The vehicle is not constructed or equipped as required by this title.

(6) The registration of the vehicle stands suspended or revoked for any reason as provided for in this title.

Section 8. Title 75 is amended by adding a section to read:

§ 1318. Duties of agents.

(a) Verification of financial responsibility.—An agent who is authorized to issue on behalf of the department a vehicle registration renewal or temporary registration shall be required to verify financial responsibility prior to issuance.

(b) Proof.—Proof of financial responsibility shall be verified by examining one of the following documents:

(1) An identification card as required by regulations promulgated by the Insurance Department.

(2) The declaration page of an insurance policy.

(3) A certificate of financial responsibility.

(4) A valid binder of insurance.

Section 9. Sections 1342(d) and 1346 of Title 75 are amended to read:

§ 1342. Veteran plates and placard.

(d) Prisoner of war plate.—On the application of an ex-prisoner of war whose imprisonment while in the service of the armed forces of the United States is certified by the appropriate branch of the armed forces, the department shall issue a special registration plate designating the vehicle as belonging to an ex-prisoner of war. The registration plate shall contain the letters "POW" and such other numbers or letters as the department may determine and shall have the words "prisoner of war" in at least ten-point bold type inscribed at the bottom of the plate. The surviving spouse of an ex-prisoner of war may retain the "POW" special registration plate. The special registration plate may be used only on one passenger vehicle or one other vehicle with a registered gross weight of not more than 9,000 pounds.

§ 1346. Special plates for recipients of Purple Heart.

Upon application of any person who is a recipient of the Purple Heart, the department shall issue to such person a special registration plate designating the vehicle so licensed as belonging to a person who is a recipient of the Purple Heart. The plate shall have a white background with a purple border and purple letters or numbers. The words "COMBAT WOUNDED VETERAN" shall be embossed in red along the top of the plate in full upper case letters and the word "Pennsylvania" shall be embossed in red along the bottom of the plate. The letter "P" over the letter "H" shall be embossed in purple on the left side of the plate. The center of the plate shall bear a decal or applique replica of the

Purple Heart in full conformity with the description set forth in 32 CFR § 578.14(b), except as to material and size. A severely disabled veteran, as described in section 1342(a) (relating to veteran plates and placard), who is qualified to receive a plate under this section may also elect to receive a placard under section 1342(b). The special registration plate may be used only on one passenger vehicle or one other vehicle with a registered gross weight of not more than 9,000 pounds.

Section 10. Title 75 is amended by adding a section to read:

§ 1348. Special plates for Pearl Harbor survivors.

Upon application of any person who is a survivor of Pearl Harbor, accompanied by a fee of \$20 which shall be in addition to the annual registration fee and by such documentation as the department shall require by regulation, the department shall issue to such person a special registration plate designating the vehicle so licensed as belonging to a person who is a survivor of Pearl Harbor. The special registration plate may be used only on one passenger vehicle or one other vehicle with a registered gross weight of not more than 9,000 pounds.

Section 11. Sections 1371, 1376, 1377 and 1547(d)(2) and (3) of Title 75 are amended to read:

§ 1371. Operation following suspension or revocation of registration.

(a) General rule.—No person shall operate and no owner shall permit to be operated upon any highway a vehicle the registration of which has been suspended or revoked.

(b) Penalty.—Any person violating this section is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than \$100 nor more than \$500.

§ 1376. Surrender of registration plates and cards upon suspension or revocation.

(a) General rule.—The department, upon suspending or revoking any registration, shall require the registration plate or plates and registration card to be surrendered immediately to the department and may delegate authority to any authorized [department] Commonwealth employee, member of the Pennsylvania State Police or local police officer to seize the registration plate or plates and registration card or cards. The department shall, by regulation, prescribe the manner of selecting the employees and State and local police officers to seize the registration plates and registration cards.

(b) Penalty.—Any person failing or refusing to surrender to the department, upon demand, any registration plate or card which has been suspended or revoked is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$100.

§ 1377. Judicial review of denial [or], suspension or revocation of registration.

Any person whose registration has been denied [or], suspended or revoked by the department shall have the right to appeal to the court vested with jurisdiction of such appeals by or pursuant to Title 42 (relating to judiciary and judicial procedure). The filing of the appeal shall act as a supersedeas and the suspension of registration shall not be imposed until determination of the matter as provided in this section. The court shall set the matter down for hearing upon 30 days written notice to the department, and thereupon take testimony and examine into the facts of the case and determine whether the petitioner is entitled to registration or subject to suspension of registration under the provisions of this title.

§ 1547. Chemical testing to determine amount of alcohol or controlled substance.

(d) Presumptions from amount of alcohol.—If chemical testing of a person's breath, blood or urine shows:

(2) That the amount of alcohol by weight in the blood of the person tested is in excess of 0.05% but less than

[0.10%] 0.08%, this fact shall not give rise to any presumption that the person tested was or was not under the influence of alcohol, but this fact may be considered with other competent evidence in determining whether the person was or was not under the influence of alcohol.

(3) That the amount of alcohol by weight in the blood of the person tested is [0.10%] 0.08% or more, this fact may be introduced into evidence if the person is charged with violating section 3731.

Section 12. Chapter 15 of Title 75 is amended by adding a subchapter to read:

CHAPTER 15
LICENSING OF DRIVERS

* * *

SUBCHAPTER D
DUI SUSPENSIONS

Sec.

- 1581. Definitions.
- 1582. Suspension on administrative determination.
- 1583. Report by law enforcement officers.
- 1584. Notice of suspension.
- 1585. Notice of suspension served by enforcement officer.
- 1586. Period of suspension.
- 1587. Restoration of license.
- 1588. Administrative review.
- 1589. Hearing.

§ 1581. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Administrative review.” A determination of license suspension by the department based on the documents supplied by the arresting officer and the arrested person.

§ 1582. Suspension on administrative determination.

(a) General rule.—The department shall suspend the license of any person upon its determination that the person drove or was in actual physical control of a motor vehicle while the amount of alcohol by weight in the blood of that person was 0.08% or more.

(b) Determination.—The department shall make an administrative determination of these facts on the basis of the report of a law enforcement officer required in section 1583 (relating to report by law enforcement officer), and this determination shall be final unless an administrative review is requested under section 1588 (relating to administrative review) or a hearing is held under section 1589 (relating to hearing).

(c) Criminal charges.—The determination of these facts by the department is independent of the determination of the same or similar facts in the adjudication of any criminal charges arising out of the same occurrence. The disposition of those criminal charges shall not affect any administrative suspension under this section.

§ 1583. Report by law enforcement officers.

(a) Content.—A law enforcement officer who arrests any person for a violation of section 3731 (relating to driving under influence of alcohol or controlled substance) shall immediately forward to the department a sworn report of all information relevant to the enforcement action, including information which adequately identifies the arrested person, a statement of the officer's grounds for belief that the person violated section 3731, a report of the results of any chemical tests which were conducted, a copy of the citation and complaint filed with the court and the individual's operator's license.

(b) Forms.—The report required by this section shall be made on forms supplied by the department or in a manner specified by regulations of the department.

§ 1584. Notice of suspension.

(a) Issuance.—Upon receipt of the report of the law enforcement officer, the department shall make the determination described in section 1582 (relating to suspension on administrative determination). If the department determines that the person is subject to license suspension and if notice of suspension has not already been served upon the person by the enforcement officer as required in section 1585 (relating to notice of suspension served by enforcement officer), the department shall issue a notice of suspension.

(b) Address and receipt of notice.—The notice of suspension shall be mailed by the department to the person at the last known address shown on the department's records, and to the address provided by the enforcement officer's report if that address differs from the address of record. The notice is deemed received three days after mailing.

(c) Content.—

(1) The notice of suspension shall clearly specify the reason and statutory grounds for the administrative suspension, the effective date of the suspension, the right of the person to request an administrative review and a hearing, the procedure for requesting an administrative review and a hearing, and the date by which a request for an administrative review must be made in order to receive a determination prior to the effective date of the suspension.

(2) If the department determines that the person is not subject to license suspension, the department shall notify the person of its determination and shall rescind any order of suspension served upon the person by the enforcement officer.

§ 1585. Notice of suspension served by enforcement officer.

(a) Personal service.—Whenever the chemical test results for a person who is being charged with a violation of section 3731 (relating to driving under influence of alcohol or controlled substance) show an alcohol concentration of 0.08% or more, the officer, acting on behalf of the department, shall serve the notice of suspension personally on the arrested person.

(b) Possession of license.—

(1) When the law enforcement officer serves the notice of suspension, the officer shall take possession of any driver's license issued by the Commonwealth which is held by the person. When the officer takes possession of a valid driver's license issued by the Commonwealth, the officer, acting on behalf of the department, shall issue a temporary permit which is valid for 15 days after its date of issuance and shall provide notice of an identification card made available by the department.

(2) A copy of the completed notice of suspension form, a copy of any completed temporary permit form and any driver's license taken into possession under this section shall be forwarded immediately to the department by the officer.

(c) Forms.—The department shall provide forms for notice of suspension and identification cards and temporary permits to law enforcement agencies.

§ 1586. Period of suspension.

(a) General rule.—The license suspension shall become effective 15 days after the subject person has received the notice of suspension as provided in section 1585 (relating to notice of suspension served by enforcement officer) or is deemed to have received the notice of suspension by mail as provided in section 1584 (relating to notice of suspension).

(b) Period.—The period of license suspension under this section shall be as follows:

(1) The period shall be three months if the person's driving record shows no prior alcohol-related or drug-related enforcement contacts during the immediately preceding five years.

(2) The period shall be one year if the person's driving record shows one or more prior alcohol-related or drug-

related enforcement contacts during the immediately preceding five years.

(c) Concurrent suspensions.—Where a license is suspended under this section and the person is also convicted on criminal charges arising out of the same occurrence for a violation of section 3731 (relating to driving under influence of alcohol or controlled substance) or 3735 (relating to homicide by vehicle while driving under influence), both the suspension under this section and the revocation or suspension under section 1532 (relating to revocation or suspension of operating privilege) shall be imposed, but the periods of revocation or suspension shall run concurrently and the total period of suspension shall not exceed the longer of the two revocation or suspension periods.

(d) Definition.—For purposes of this section, “alcohol-related or drug-related enforcement contacts” shall include any administrative suspension under this title, any suspension or revocation entered in this or any other state for a refusal to submit to chemical testing under an implied consent law and any conviction in this or any other state for a violation which involves driving a vehicle while having an unlawful alcohol concentration, or while under the influence of alcohol or drugs or alcohol and drugs.

§ 1587. Restoration of license.

The periods of suspension specified by section 1586 (relating to period of suspension) are intended to be minimum periods of suspension for the described conduct. No license shall be restored under any circumstances, and no restricted or hardship permit shall be issued during the suspension period. No driving privilege may be restored until all applicable reinstatement fees have been paid.

§ 1588. Administrative review.

(a) General rule.—Any person who has received a notice of suspension under this subchapter may request an administrative review. The request may be accompanied by a sworn statement or statements and any other relevant evidence which the person wants the department to consider in reviewing the determination made pursuant to section 1582 (relating to suspension on administrative determination).

(b) Evidence.—When a request for administrative review is made, the department shall review the determination made pursuant to section 1582. In the review, the department shall give consideration to any relevant sworn statement or other evidence accompanying the request for the review, and to the sworn statement of the law enforcement officer required by section 1583 (relating to report by law enforcement officers). If the department determines, by the preponderance of the evidence, that the person drove or was in actual physical control of a motor vehicle while the amount of alcohol by weight in the blood of that person was 0.08% or more, the department shall sustain the order of suspension. If the evidence does not support such a determination, the department shall rescind the order of suspension. The determination of the department upon administrative review is final unless a hearing is requested under section 1589 (relating to hearing).

(c) Time.—The department shall make a determination upon administrative review prior to the effective date of the suspension order if the request for the review is received by the department within eight days following service of the notice of suspension. Where the request for administrative review is received by the department more than eight days following service of the notice of suspension, the department shall make its determination within seven days following the receipt of the request for review.

(d) Effect of request.—A request for administrative review shall not stay the license suspension. If the department is unable to make a determination within the time limits specified in subsection (c), it shall stay the suspension pending that determination.

(e) Forms.—The request for administrative review may be made by mail or in person at any office of the department. The department shall provide forms which the person may use to request an administrative review and to submit a sworn statement, but use of the forms is not required.

(f) Hearing.—A person may request and be granted a hearing under section 1589 without first requesting administrative review under this section. Administrative review is not available after a hearing is held.

§ 1589. Hearing.

(a) General rule.—Any person who has received a notice of suspension may make a written request for a hearing. The request may be made on a form available at each office of the department. If the person’s driver’s license has not been previously surrendered, it shall be surrendered at the time the request for a hearing is made. A request for a hearing shall not stay the license suspension.

(b) Notice.—The hearing shall be scheduled to be held as quickly as practicable within 30 days of the filing of the request for a hearing. The hearing shall be held at a place designated by the department as close as practicable to the place where the arrest occurred, unless the parties agree to a different location. The department shall provide a written notice of the time and place of the hearing to the party requesting the hearing at least ten days prior to the scheduled hearing, unless the parties agree to waive this requirement.

(c) Hearing officer.—The hearing officer shall be designated by the secretary. The hearing officer shall have authority to administer oaths and affirmations; to examine witnesses and take testimony; to receive relevant evidence; to issue subpoenas, take depositions, or cause depositions or interrogatories to be taken; to regulate the course and conduct of the hearing; and to make a final ruling on the issue.

(d) Evidence.—The sole issue at the hearing shall be whether by a preponderance of the evidence the person drove or was in actual physical control of a motor vehicle while the amount of alcohol by weight in the blood of that person was 0.08% or more. If the hearing officer finds the affirmative of this issue, the suspension order shall be sustained. If the hearing officer finds the negative of the issue, the suspension order shall be rescinded.

(e) Decision.—The hearing shall be recorded. The decision of the hearing officer shall be rendered in writing, and a copy will be provided to the person who requested the hearing.

(f) Failure to appear.—If the person who requested the hearing fails to appear without just cause, the right to a hearing shall be waived, and the department’s determination shall be final.

(g) Appeals.—An appeal from a decision of a hearing officer may be taken in the manner provided in Title 2 (relating to administrative law and procedure). Notwithstanding section 1550(b) (relating to judicial review), no appeal under this section shall act as a supersedeas.

Section 13. Section 1701 of Title 75 is amended to read:

§ 1701. Short title of chapter.

This chapter shall be known and may be cited as the [Motor Vehicle Financial Responsibility Law] Consumer Automobile Insurance Reform Act.

Section 14. Section 1702 of Title 75 is amended by adding definitions to read:

§ 1702. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Assigned risk.” An insured who has been unable to obtain private passenger automobile insurance coverage at a voluntary rate and who has been assigned to an insurer by the Assigned Risk Plan.

“Assigned Risk Plan.” A program for the equitable apportionment of assigned risks among insurers.

“Assigned risk rate.” The rates under the rating plan approved by the commissioner for assigned risks.

“Clean risk.” An insured, who for the 36-month period immediately preceding the date of application or renewal date of the policy:

(1) has not been involved in an accident other than an accident excluded by 40 Pa.C.S. 5903 (relating to insufficient grounds for failure to insure);

(2) has not received points for violations as set forth in Chapter 15 (relating to licensing of drivers); and

(3) whose operators license has not been suspended or revoked except under section 1533 (relating to suspension of operating privilege for failure to respond to citation) and the insured is able to produce proof that he or she has responded to all citations and paid all fines and penalties imposed under that section and provided further that the named insured has been a licensed operator for the immediately preceding three years.

“Clean risk rate.” The rate applicable to clean risks which shall be reasonably comparable to similarly situated risks in the voluntary market.

“Commissioner.” The Insurance Commissioner of the Commonwealth.

“Medical rehabilitation.” The provision of all services in any inpatient, outpatient, office or home setting by or under the supervision of licensed or certified rehabilitation professionals and paraprofessionals for the purpose of reducing the functional limitations of individuals with physical impairments or of reducing physical and mental impairments resulting from traumatic injury.

“Medical rehabilitation providers.” Rehabilitation hospitals, distinct-part rehabilitation units in acute care hospitals providing medical rehabilitation services on an inpatient and/or outpatient basis; comprehensive outpatient rehabilitation facilities (CORFs) accredited and/or certified by Medicare; and accredited or licensed community reintegration programs that provide medical rehabilitation services to traumatically injured persons.

“Noneconomic loss.” Pain and suffering and similar non-monetary detriment.

“Private passenger motor vehicle.” A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers and is not rented to others, or any four-wheel motor vehicle with a gross weight not exceeding 9,000 pounds which is not principally used in the occupation, profession or business of the insured other than farming. The term does not include any motor vehicle insured under a policy covering garage, automobile sales agency repair shop, service stations or public parking place operation hazards.

“Serious injury.” A personal injury resulting in death, serious impairment of body function or permanent serious disfigurement. The determination of whether an injury constitutes a serious injury shall be a question of law, and not a question of fact.

“Underserved rating territory.” Any rating territory in which the voluntary market is less than 75% of the total registered vehicles in the most recent year for which data is available. Such designation to be made by the commissioner and published triennially in the Pennsylvania Bulletin.

“Voluntary rate.” An insurer’s rating plan approved by the commissioner. In the case of an insurer with multiple rating plans, the voluntary rate shall be that rating plan applicable to the risk.

Section 15. Title 75 is amended by adding a section to read:
§ 1705. Election of tort options.

(a) Financial responsibility requirements.—

(1) Each insurer, prior to the first issuance or the first renewal of a private passenger motor vehicle liability insurance policy on and after the effective date of this section, shall notify, in writing, each applicant and each named insured of the availability of the two alternatives of full tort insurance and limited tort insurance described in subsections (c) and (d). The notice shall be in a standardized form adopted by the commissioner and shall include a comparison of the premiums that would be charged under each option. Such notice shall also describe each tort option and explain who may be bound by the named insured’s tort election. Any person signing, or otherwise bound by, a document containing such terms is bound by such election and is precluded from claiming liability of any person based upon being inadequately informed in making the election between full tort or limited tort alternatives. Where there are two or more named insureds on a policy, any named insured may make the full or limited tort election provided for in this section.

(2) If a named insured or any person who receives a notice under paragraph (1) does not indicate a choice, each insurer shall send a second notice by certified mail, return receipt requested. The second notice shall be in a standardized form adopted by the commissioner. If the named insured does not respond to either notice, the named insured and those he is empowered by this section to bind by his choice are conclusively presumed to have chosen the limited tort alternative. All notices required by this section shall advise that if no tort election is made, the named insured and those he is empowered to bind by his choice are conclusively presumed to have chosen the limited tort alternative. Any person subject to the limited tort option by virtue of this paragraph shall be precluded from claiming liability of any person based upon being inadequately informed.

(3) An owner of a currently registered private passenger motor vehicle who does not have financial responsibility shall be deemed to have chosen the limited tort alternative.

(4) Nothing in this section changes or modifies the existing requirement that owners of registered vehicles maintain bodily injury and property damage liability insurance arising out of the ownership, maintenance or use of a motor vehicle.

(b) Application of tort options.—

(1) The tort option elected by a named insured shall apply to all private passenger motor vehicle policies of the named insured and shall continue in force as to all subsequent renewal policies, replacement policies and any other private passenger motor vehicle policies under which the individual is a named insured, until the insurer, or its authorized representative, receives a properly executed form electing the other tort option.

(2) The tort option elected by a named insured shall apply to all insureds under the private passenger motor vehicle policy who are not named insureds under another private passenger motor vehicle policy. In the case where more than one private passenger motor vehicle policy is applicable to an insured, and the policies have conflicting tort options, the tort option of the policy associated with the private passenger motor vehicle in which the insured is an occupant at the time of the accident shall apply; if the insured is not an occupant of a private passenger motor vehicle at the time of the accident, then the policy affording the full tort option shall apply.

(3) If an individual is not a named insured or insured under any private passenger motor vehicle policy, then that individual is bound by the election of the policy associated with the private passenger motor vehicle in which he is an occupant at the time of the accident.

(c) Full tort alternative.—Each person who is bound by the full tort election shall obtain compensation for noneconomic loss claimed and economic loss sustained in excess of applicable coverage limits in a motor vehicle accident as the consequence of the fault of another person pursuant to applicable tort law.

(d) Limited tort alternative.—Each person who is bound by the limited tort election shall be precluded from maintaining an action for any noneconomic bodily injury damages, unless the injury sustained is a serious injury, except in the following circumstances:

(1) An individual otherwise bound by the limited tort election who sustains damages in a motor vehicle accident as the consequence of the fault of another person who is:

(i) convicted of driving under the influence of alcohol or a controlled or illegal drug or substance in that accident; or

(ii) operating a motor vehicle registered in another State;

may recover damages as if the individual damaged had elected the full tort alternative.

(2) A person in the business of designing, manufacturing, repairing, servicing or otherwise maintaining motor vehicles remains liable for injury arising out of a defect in such motor vehicle which is caused by or not corrected by an act or omission in the course of such business, other than a defect in a motor vehicle which is operated by such business.

(3) A person remains liable for intentionally injuring himself or another person. An individual does not intentionally injure himself or another individual merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of causing injury or the act or omission causing the injury is for the purpose of averting bodily harm to himself or another individual.

(4) An individual otherwise bound by the limited tort election shall retain full tort rights if injured while an occupant of a commercial motor vehicle.

(5) An individual otherwise bound by the limited tort election who sustains damages in a motor vehicle accident as the consequence of the fault of another person who has not maintained financial responsibility as required by this chapter may recover from the personal assets of the at-fault person. Nothing in this paragraph shall effect the limitation of section 1731(d)(2) (relating to availability, scope and amount of coverage).

(e) Risk exchange.—All insurers licensed to transact motor vehicle liability insurance in this Commonwealth shall establish, maintain and operate a risk exchange. Insurers subject to this subsection shall prepare a plan of operation for the risk exchange, which plan, and all amendments thereto, shall be subject to the prior approval of the commissioner. The risk exchange shall be for the purpose of redistributing losses and loss adjustment expenses paid and premiums received by members of the exchange. The redistribution shall be made on a fair and equitable basis among members with a disproportionately low or high number of policies subject to the limited tort alternative.

(f) Definitions.—The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

“Insured.” Any individual residing in the household of the named insured who is:

(1) a spouse or other relative of the named insured; or

(2) a minor in the custody of either the named insured or relative of the named insured.

“Named insured.” Any individual identified by name as an insured in a policy of private passenger motor vehicle insurance.

Section 16. Section 1711 of Title 75, amended April 26, 1989 (P.L.13, No.4), is amended to read:

§ 1711. Required benefits.

An insurer issuing or delivering liability insurance policies covering any motor vehicle of the type required to be registered under this title, except recreational vehicles not intended for highway use, motorcycles, motor-driven cycles or motorized pedalcycles or like type vehicles, registered and operated in this Commonwealth, shall include coverage providing a medical benefit in the amount of \$10,000[,] and an income loss benefit up to a monthly maximum of \$1,000 up to a maximum benefit of \$5,000 [and a funeral benefit in the amount of \$1,500], as defined in section 1712 (relating to availability of benefits), with respect to injury arising out of the maintenance or use of a motor vehicle. The income loss benefit provided under this section may be expressly waived by the named insured provided the named insured has no expectation of actual income loss due to age, disability or lack of employment history. At the election of the named insured, such policy shall also include an extraordinary medical benefit as described in section 1715(a)(1.1) and (d) (relating to availability of adequate limits).

Section 17. Section 1712(1) of Title 75 is amended to read:

§ 1712. Availability of benefits.

An insurer issuing or delivering liability insurance policies covering any motor vehicle of the type required to be registered under this title, except recreational vehicles not intended for highway use, motorcycles, motor-driven cycles or motorized pedalcycles or like type vehicles, registered and operated in this Commonwealth, shall make available for purchase first party benefits with respect to injury arising out of the maintenance or use of a motor vehicle as follows:

(1) Medical benefit.—[Coverage] Subject to the limitations of section 1797 (relating to charges for treatment and peer review), coverage to provide for reasonable and necessary medical treatment and rehabilitative services, including, but not limited to, hospital, dental, surgical, psychiatric, psychological, osteopathic, ambulance, chiropractic, licensed physical therapy, nursing services, vocational rehabilitation and occupational therapy, speech pathology and audiology, optometric services, medications, medical supplies and prosthetic devices, all without limitation as to time, provided that, within 18 months from the date of the accident causing injury, it is ascertainable with reasonable medical probability that further expenses may be incurred as a result of the injury. Benefits under this paragraph may include any nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing.

Section 18. Section 1715 of Title 75, amended April 26, 1989 (P.L.13, No.4), is amended to read:

§ 1715. Availability of adequate limits.

(a) General rule.—An insurer shall make available for purchase first party benefits as follows:

(1) For medical benefits, up to at least \$100,000.

(1.1) For extraordinary medical benefits, from \$100,000 to \$1,100,000, which may be offered in increments of \$100,000, as limited by subsection (d).

(2) For income loss benefits, up to at least \$2,500 per month up to a maximum benefit of at least \$50,000.

(3) For accidental death benefits, up to at least \$25,000.

(4) For funeral benefits, \$2,500.

(5) For combination of benefits enumerated in paragraphs (1) through (4) and subject to a limit on the accidental death benefit of up to \$25,000 and a limit on the funeral benefit of \$2,500, up to at least [\$277,500] \$177,500 of benefits in the aggregate or benefits payable up to three years from the date of the accident, whichever occurs first, provided that nothing contained in this subsection shall be construed to limit, reduce, modify or change the provisions of subsection (d).

(b) Higher [or lower] limits and additional benefits.—Insurers may make available higher [or lower] limits or benefits in addition to those enumerated in subsection (a).

(c) Restriction on providing first party benefits.—An insurer shall not issue or deliver a policy providing first party benefits in accordance with this subchapter unless the policy also contains coverage for liability in amounts at least equal to the limits required for financial responsibility.

(d) Limitations.—The maximum medical benefit which shall be paid on behalf of any one eligible claimant under subsection (a)(1.1) shall be \$50,000 per year and \$1,000,000 lifetime aggregate of reasonable and necessary expenses only for medical treatment and rehabilitative services which, as described in section 1712(1) (relating to availability of benefits), exceed \$100,000. During the first 18 months of eligibility, the insurer shall approve payments on behalf of a claimant without regard to the \$50,000 per year limit but subject to the \$1,000,000 lifetime aggregate.

(e) Other extraordinary medical benefits.—Notwithstanding the requirement of subsection (a)(1.1), an insured may obtain the extraordinary medical benefits described in that subsection through any insurance contract, program or group arrangement.

(f) Determining adverse experience of an agent.—For purposes of determining adverse experience of an agent, experience generated from extraordinary medical benefit coverage described in subsection (a)(1.1) shall be excluded.

(g) Voluntary pooling.—Notwithstanding any other provisions of this act or the act of June 11, 1947 (P.L.538, No.246), known as The Casualty and Surety Rate Regulatory Act, two or more insurers may enter into an arrangement or agreement to provide for the availability of an extraordinary medical benefit pursuant to the provisions of this chapter. All such arrangements or agreements entered into by an insurer shall be subject to the prior approval of the commissioner.

Section 19. Section 1718(c) of Title 75 is amended to read:

§ 1718. Exclusion from benefits.

(c) Named driver exclusion.—An insurer may exclude any insured or his personal representative from first party benefits [under a policy enumerated in section 1711 or 1712], uninsured and underinsured motorist coverages and comprehensive and collision coverages when the insured is excluded from coverage while operating a motor vehicle in accordance with the act of June 5, 1968 (P.L.140, No.78), relating to the writing, cancellation of or refusal to renew policies of automobile insurance. Such exclusion shall not affect entitlement to third party liability benefits under the insured's policy or the excluded individual's eligibility for coverage under the named insured's policy for any injuries sustained while not operating a motor vehicle.

Section 20. Section 1722 of Title 75, amended April 26, 1989 (P.L.13, No.4), is amended to read:

§ 1722. Preclusion of pleading, proving and recovering required benefits.

In any action for damages against a tortfeasor arising out of the maintenance or use of a motor vehicle, a person who is eligible to receive benefits under the coverages set forth in [section 1711 (relating to required benefits) or the coverage set forth in section 1715(a)(1.1) (relating to availability of adequate limits)] this subchapter, or workers' compensation, or any program, group contract, or other arrangement for payment of benefits as defined in section 1719 (relating to coordination of benefits) shall be precluded from pleading, introducing into evidence or recovering the amount of benefits paid or payable under [section 1711 or 1715(a)(1.1). This preclusion applies only to the amount of benefits set forth in sections 1711 and 1715(a)(1.1)] this subchapter, or workers' compensation, or any program, group contract, or other arrangement for payment of benefits as defined in section 1719.

Section 21. Sections 1731(a) and (d), 1733 and 1734 of Title 75 are amended to read:

§ 1731. [Scope] Availability, scope and amount of coverage.

(a) [General rule] Mandatory offering.—No motor vehicle liability insurance policy shall be delivered or issued for delivery in this Commonwealth, with respect to any motor vehicle registered or principally garaged in this Commonwealth, unless uninsured motorist and underinsured motorist coverages are [provided] offered therein or supplemental thereto in amounts [equal to the bodily injury liability coverage except] as provided in section 1734 (relating to request for lower or higher limits of coverage). Purchase of uninsured motorist and underinsured motorist coverages is optional.

(d) Limitation on recovery.—

(1) A person who recovers damages under uninsured motorist coverage or coverages cannot recover damages under underinsured motorist coverage or coverages for the same accident.

(2) A person precluded from maintaining an action for damages under section 1705 (relating to election of tort options) may not recover uninsured motorist coverage or underinsured motorist coverage.

(3) Recovery of underinsured motorist coverage shall not exceed the difference between the applicable underinsured motorist coverage limit and the applicable liability limits.

§ 1733. Priority of recovery.

[Where multiple policies apply, payment shall be made in the following order of priority:

(1) A policy covering a motor vehicle occupied by the injured person at the time of the accident.

(2) A policy covering a motor vehicle not involved in the accident with respect to which the injured person is an insured.]

(a) General rule.—A person shall recover uninsured and underinsured benefits against applicable insurance coverage in the following order of priority:

(1) For a named insured, the policy on which he is the named insured.

(2) For an insured, the policy covering the insured.

(b) Multiple sources of equal priority.—The insurer against whom a claim is asserted first under the priorities set forth in subsection (a) shall process and pay the claim as if wholly responsible. The insurer is thereafter entitled to recover contribution pro rata from any other insurer for the benefits paid and the costs of processing the claim.

§ 1734. Request for lower [or higher] limits of coverage.

A named insured may request in writing the issuance of coverages under section 1731 (relating to scope and amount of coverage) in amounts equal to or less than the limits of liability for bodily injury but in no event less than the amounts required by this chapter for bodily injury. [If the named insured has selected uninsured and underinsured motorist coverage in connection with a policy previously issued to him by the same insurer under section 1731, the coverages offered need not be provided in excess of the limits of liability previously issued for uninsured and underinsured motorist coverage unless the named insured requests in writing higher limits of liability for those coverages.]

Section 22. Title 75 is amended by adding a section to read:

§ 1737. Stacking of benefits.

Uninsured and underinsured motorists benefits shall not be increased by stacking the limits of coverage of:

(1) multiple motor vehicles covered under the same policy of insurance; or

(2) multiple motor vehicle policies covering the individual for the same loss.

Section 23. Sections 1741, 1742, 1743, 1744, 1753, 1754, 1781, 1782 and 1783 are amended to read:

§ 1741. Establishment.

[The Insurance Department shall, after consultation with the] There is hereby established an Assigned Risk Plan consisting of all insurers licensed to write motor vehicle liability insurance in this Commonwealth, [adopt a reasonable Assigned Risk Plan] for the equitable apportionment among those insurers of applicants for motor vehicle liability insurance, [who are entitled to, but are unable to, procure insurance through ordinary methods. When the plan has been adopted, all] The plan shall submit proposed rules and amendments thereto to the Insurance Department for approval. The Insurance Department may establish or amend plan rules as appropriate. However, the Insurance Department shall not disapprove or amend a rule proposed by the plan except upon 30 days' written notice stating the reasons therefor and providing the plan an opportunity to respond. All motor vehicle liability insurers shall subscribe [thereto] to the rules and shall participate in the plan. [The plan may provide reasonable means for the transfer of individuals insured thereunder into the ordinary market, at the same or lower rates, pursuant to regulations established by the department.]

§ 1742. Scope of plan.

The Assigned Risk Plan shall:

(1) Include rules for the classification of risks and rates therefor.

(2) Provide for the installment payment of premiums subject to customary terms and conditions.]

(1) Provide rules for the equitable apportionment among participating insurers of applicants who are unable to obtain motor vehicle liability insurance at voluntary rates.

(2) Provide reasonable means for the mandatory transfer of individuals insured thereunder into the voluntary market at voluntary rates.

(3) Provide rules for depopulation incentives which shall reduce assignments to those insurers who voluntarily provide insurance at voluntary rates to insureds who are either in the Assigned Risk Plan or in underserved territories.

(4) Include rules for the classification of risks and rates therefor, including a rate for clean risks which shall be reasonably comparable to similarly situated risks in the voluntary market.

(5) Provide for surcharging in cases where an applicant has materially misrepresented his driving record.

(6) Provide, that in the event a policy of insurance issued by the Assigned Risk Plan is canceled or nonrenewed during the first year by reason of nonpayment of premium to the insurer issuing the policy or nonpayment of an installment due pursuant to an insurance premium finance agreement, the agent or broker of record for that policy shall be entitled to a commission equal to no less than 45% of the fully earned annual commission for the Statewide average Assigned Risk premium.

§ 1743. Rates.

All rates [for] filed by the Assigned Risk Plan shall be subject to the act of June 11, 1947 (P.L.538, No.246), known as The Casualty and Surety Rate Regulatory Act, and shall not be inadequate, excessive or unfairly discriminatory. The Assigned Risk Plan shall file with the department for the clean risk rate within 30 days after the effective date of this amendatory act.

§ 1744. Termination of policies.

Cancellation, refusal to renew and other termination of policies issued under the Assigned Risk Plan shall be in accordance with the rules of the plan.] and, where applicable, the act of July 3, 1986 (P.L.396, No.86), entitled "An act requiring notice of rate increases, policy cancellations and nonrenewals by property and casualty insurers."

§ 1753. Benefits available.

An eligible claimant may recover medical benefits, as described in section 1712(1) (relating to availability of benefits),

up to a maximum of [\$5,000] \$10,000. No income loss benefit or accidental death benefit shall be payable under this subchapter. Funeral expenses, as described in section 1712(4), in the amount of \$1,500 shall also be recoverable [as an offset to the maximum amount of medical benefits available under this section].

§ 1754. Additional coverage.

An eligible claimant who has sustained a serious injury and has no other source of applicable uninsured motorist coverage and is otherwise entitled to recover in an action in tort against a party who has failed to comply with this chapter may recover for losses or damages suffered as a result of the injury up to \$15,000 subject to an aggregate limit for all claims arising out of any one motor vehicle accident of \$30,000. [If a claimant recovers medical benefits under section 1753 (relating to benefits available), the amount of medical benefits recovered or recoverable up to \$5,000 shall be set off against any amounts recoverable in this section.]

§ 1781. Notice of sanction for not evidencing financial responsibility.

An applicant for registration of a vehicle shall acknowledge on a form developed by the Department of Transportation that the applicant knows he may lose his operating privilege or vehicle registrations if he fails to [evidence financial responsibility for the purposes described in section 1772 (relating to suspension for nonpayment of judgments), 1783 (relating to proof of financial responsibility before restoring operating privilege or registration), 1784 (relating to proof of financial responsibility following violation) or 1785 (relating to proof of financial responsibility following accident).] maintain financial responsibility on the currently registered vehicle for the period of registration.

§ 1782. Manner of providing proof of financial responsibility.

(a) General rule.—Proof of financial responsibility may be furnished by filing evidence satisfactory to the department that all motor vehicles registered in a person's name are covered by motor vehicle liability insurance or by a program of self-insurance as provided by section 1787 (relating to self-insurance) or other reliable financial arrangements, deposits, resources or commitments acceptable to the department.

(b) Nonresident.—The nonresident owner of a motor vehicle not registered in this Commonwealth may give proof of financial responsibility by filing with the department a written certificate or certificates of an insurance company authorized to transact business in the state in which the motor vehicle or motor vehicles described in the certificate are registered or, if the nonresident does not own a motor vehicle, then evidence satisfactory to the department that the person does not own a motor vehicle. The department shall accept the certificate upon condition that the insurance company complies with the following provisions with respect to the policies so certified:

(1) The insurance company shall execute a power of attorney authorizing the department to accept service on its behalf or process in any action arising out of a motor vehicle accident in this Commonwealth.

(2) The insurance company shall agree in writing that the policies shall be deemed to conform with the laws of this Commonwealth relating to the terms of motor vehicle liability policies issued in this Commonwealth.

(c) Default by foreign insurance company.—If any insurance company not authorized to transact business in this Commonwealth, which has qualified to furnish proof of financial responsibility, defaults in any undertakings or agreements, the department shall not thereafter accept as proof any certificate of the company whether theretofore filed or thereafter tendered as proof as long as the default continues.

(d) Financial responsibility identification cards.—Insurers shall provide financial responsibility identification cards to insureds which shall be valid only for the period for which coverage has been paid by the insured. Financial responsibility identification cards shall disclose the period for which coverage has been

paid by the insured and contain such other information as required by the Insurance Department.

§ 1783. Proof of financial responsibility before restoring operating privilege or registration.

(a) General rule.—Whenever the department suspends or revokes the operating privilege of any person or the registration of any vehicle pursuant to section 1532 (relating to revocation or suspension of operating privilege), 1542 (relating to revocation of habitual offender's license), 1772 (relating to suspension for non-payment of judgments), [1784 (relating to proof of financial responsibility following violation) or 1785 (relating to proof of financial responsibility following accident),] 1784.1 (relating to required financial responsibility) or 1784.2 (relating to maintenance of financial responsibility) or upon receiving the record of a conviction or forfeiture of bail, the department shall not restore the operating privilege or the applicable registration until the person furnishes proof of financial responsibility.

(b) Additional requirements for registration restoration.—Proof of financial responsibility for the restoration of a registration shall be furnished to the department in the form of a financial responsibility certificate. The certificate shall:

(1) Include the effective date of the motor vehicle liability insurance policy and the period of time for which payment has been tendered.

(2) Contain the policy number.

(3) Describe all vehicles covered by the policy unless such policy is issued with respect to all vehicles operated by the insured.

(4) Certify that payment has been tendered for a minimum period of three months.

(c) Coverage of all vehicles.—The department may reject any certificate or certificates if they do not cover all vehicles registered in the name of or operated by the person furnishing the proof except vehicles that are in storage and for which the current registration plates and cards have been surrendered to the department.

Section 24. Section 1784 of Title 75 is repealed.

Section 25. Title 75 is amended by adding sections to read:

§ 1784.1. Required financial responsibility.

(a) General rule.—Every motor vehicle of the type required to be registered under this title which is operated or currently registered shall be covered by financial responsibility.

(b) Consent to produce proof of financial responsibility.—Upon registering a motor vehicle or renewing a motor vehicle registration, the registrant of the motor vehicle shall be deemed to have given consent to produce proof to any police officer or to any Commonwealth employee authorized by the department that the vehicle registrant has the financial responsibility required by this chapter. Failure to produce proof of financial responsibility to a police officer or authorized Commonwealth employee upon request shall be presumptive evidence that such person was operating the vehicle without having in effect financial responsibility required by this chapter.

(c) Suspension of registration and operating privilege.—The department shall revoke the registration of a vehicle for a period of three months if it determines the required financial responsibility has not been secured as required by this chapter. If the driver is the registrant of the vehicle, the department shall also suspend the operating privilege of the defendant for a period of three months. The registration or operating privilege shall not be restored until proof of financial responsibility is submitted together with the restoration fee for operating privilege provided by section 1960 (relating to reinstatement of operating privilege). The registration shall not be restored until an additional \$200 civil penalty has been paid.

(d) Obligations upon termination of financial responsibility.—

(1) Any registrant of a motor vehicle who ceases to maintain financial responsibility on a registered vehicle shall not operate or permit operation of the vehicle in this Commonwealth until proof of the required financial responsibility has been provided to the department.

(2) An insurer who has issued a contract of motor vehicle liability insurance, or any approved self-insurance entity, shall notify the department within ten days of the cancellation, nonrenewal or termination of the insurance by the insurer or insured in a method prescribed by regulations promulgated by the department.

(3) Any person who, after maintaining financial responsibility on the vehicle of another person, ceases to maintain such financial responsibility shall immediately notify the vehicle's registrant, who shall not operate or permit operation of the vehicle in this Commonwealth.

(4) In the case of a person who leases any motor vehicle from a person engaged in the business of leasing motor vehicles, the lessee shall sign a statement indicating that the required financial responsibility has been provided. The lessee shall submit the statement to the lessor.

§ 1784.2. Maintenance of financial responsibility.

(a) General rule.—Any registrant of a motor vehicle for which the existence of financial responsibility is a requirement for its legal operation shall maintain financial responsibility required by this chapter and shall, upon request of the department, produce proof of financial responsibility in a manner determined by the department. Any person who fails to comply with this subsection is subject to a civil penalty of \$100 plus \$100 for each month or part of a month of the registration period for which financial responsibility was not maintained.

(1) Any additional offense committed within a period of five years shall result in a \$200 civil penalty plus \$200 for each month or part of a month of the registration period for which financial responsibility was not maintained.

(2) The registration of the vehicle shall not be renewed, restored or transferred until these penalties are fully paid. Payment shall be in the form of cash, money order or certified check.

(b) Defense.—No person shall be penalized for maintaining a registered motor vehicle without financial responsibility if the registration plate and card were surrendered to the department at the time insurance coverage terminated or financial responsibility lapsed.

Section 26. Section 1785 of Title 75 is repealed.

Section 27. Section 1791 of Title 75, amended April 26, 1989 (P.L. 13, No. 4), is amended to read:

§ 1791. Notice of available benefits and limits.

It shall be presumed that the insured has been advised of the benefits and limits available under this chapter provided the following notice in bold print of at least ten-point type is given to the applicant at the time of application for original coverage [or at the time of the first renewal after October 1, 1984], and no other notice or rejection shall be required:

IMPORTANT NOTICE

Insurance companies operating in the Commonwealth of Pennsylvania are required by law to make available for purchase the following benefits for you, your spouse or other relatives or minors in your custody or in the custody of your relatives, residing in your household, occupants of your motor vehicle or persons struck by your motor vehicle:

(1) Medical benefits, up to at least \$100,000.

(1.1) Extraordinary medical benefits, from \$100,000 to \$1,100,000 which may be offered in increments of \$100,000.

(2) Income loss benefits, up to at least \$2,500 per month up to a maximum benefit of at least \$50,000.

(3) Accidental death benefits, up to at least \$25,000.

(4) Funeral benefits, \$2,500.

(5) As an alternative to paragraphs (1) through (4), a combination benefit, up to at least [\$277,500] \$177,500 of benefits in the aggregate or benefits payable up to three years from the date of the accident, whichever occurs first, subject to a limit on accidental death benefit of up to \$25,000 and a limit on funeral benefit of \$2,500, provided that nothing contained in this subsection shall be construed to limit, reduce, modify or change the provisions of section 1715(d) (relating to availability of adequate limits).

(6) Uninsured, underinsured and bodily injury liability coverage up to at least \$100,000 because of injury to one person in any one accident and up to at least \$300,000 because of injury to two or more persons in any one accident or, at the option of the insurer, up to at least \$300,000 in a single limit for these coverages, except for policies issued under the Assigned Risk Plan. Also, at least \$5,000 for damage to property of others in any one accident.

Additionally, insurers may offer higher benefit levels than those enumerated above as well as additional benefits. However, an insured may elect to purchase lower benefit levels than those enumerated above.

Your signature on this notice or your payment of any renewal premium evidences your actual knowledge and understanding of the availability of these benefits and limits as well as the benefits and limits you have selected.

Section 28. Title 75 is amended by adding a section to read:
§ 1792.1. Physical damage coverages deductibles.

All insurers shall offer a standard deductible on comprehensive and collision coverages each in the amount of \$500 and other lesser deductible amounts. No person or entity providing financing to the purchaser of a motor vehicle or otherwise holding a security interest in a motor vehicle may require the purchase of a deductible for less than \$500 for collision and comprehensive coverages. Any financial institution, insurer, agent or other person or entity found to have violated this provision shall be required to reimburse the insured in an amount equal to the difference and, in addition, shall be required to pay a civil penalty of \$500 to the Department of Transportation for each violation.

Section 29. Section 1793 of Title 75 is amended by adding a subsection to read:

§ 1793. Special provisions relating to premiums.

(c.1) Premium discounts.—Insurers shall provide premium discounts for motor vehicles with passive restraint devices or passive antitheft devices. The passive antitheft device discount shall apply to the comprehensive coverage and shall be approved by the commissioner as part of the insurer's rate filing, provided that such discount shall not be less than 10%. The passive restraint discount shall apply to the first party benefit coverage and shall be approved by the commissioner as part of the insurer's rate filing, provided that such discount shall not be less than 15% for passive seat belts, 20% for one airbag on the operator's side of the vehicle and 30% for two airbags. For purposes of this subsection, a "passive antitheft device" includes any item or system installed in an automobile which is activated automatically when the operator turns the ignition key to the off position and which is designed to prevent unauthorized use. A "passive restraint" includes any frontal automotive crash protection system which requires no action of the vehicle occupants and complies with standard 571.208 of the National Traffic Safety Administration. Some or all of the premium discounts required by this subsection may be omitted upon demonstration to the department in an insurer's rate filing that the discounts are adequately reflected in the insurer's experience.

Section 30. Section 1797 of Title 75 is amended to read:
§ 1797. [Customary charges] Charges for treatment and peer review.

[A] (a) Charges for treatment.—Except as provided in subsections (b) and (c), a person or institution providing treatment, accommodations, products or services to an injured person for an injury covered by medical [or], catastrophic loss or extraordinary medical benefits shall not [make a charge] require, request or accept payment for the treatment, accommodations, products or services in excess of 110% of the prevailing or diagnostic related group reimbursement under the Medicare program. If no Medicare program amount applies, the charge shall not exceed 80% of the amount the person or institution customarily charges for like treatment, accommodations, products and services in cases involving no insurance. Providers subject to this section may not bill the insured directly but must bill the insurer for a determination of the amount payable. The provider shall not bill or otherwise attempt to collect from the insured the difference between the provider's full charge and the amount paid by the insurer.

(b) Medical rehabilitation providers.—Subsection (a) shall not apply to medical rehabilitation providers. Medical rehabilitation providers shall involve insurer case managers in treatment decisions which impact significantly upon the duration or cost of service.

(c) Emergency medical services.—Notwithstanding subsection (a), emergency medical services provided by a trauma center accredited in accordance with the act of July 3, 1985 (P.L.164, No.45), known as the Emergency Medical Services Act, may not exceed the amount the institution customarily charges for like treatment, accommodation, products and services in cases involving no insurance.

(d) Peer review.—Insurers shall contract jointly or separately with any peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. The peer review plan of each insurer and all amendments thereto shall be subject to the approval of the commissioner. The initial peer review plan shall be filed within 120 days of the effective date of this section. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance. The insured may not be billed for any treatment, accommodations, products or services during the peer review process.

Section 31. Title 75 is amended by adding a section to read:
§ 1799. Rates.

(a) Rate filing.—All insurers and the Assigned Risk Plan must file for new private passenger motor vehicle rates within 45 days of the effective date of this section. These rates shall apply to all policies issued and renewed on and after the first day of the first month six months after the effective date of this section.

(b) Rate reductions.—The rates charged by insurers under the filing required by subsection (a) shall be reduced from current rates as follows:

(1) For insureds electing the limited tort option under section 1705 (relating to election of tort options):

(i) At least 65% on the minimum required bodily injury financial responsibility.

(ii) At least 80% on the minimum uninsured and underinsured motorist coverage limits allowed by section 1734 (relating to request for lower limits of coverage), prior to the effective date of this section.

(iii) At least 15% on the first party benefit coverage limits required by section 1711 (relating to required benefits), prior to the effective date of this section.

(2) For insureds electing the full tort option under section 1705:

(i) At least 5% on the minimum required bodily injury financial responsibility.

(ii) At least 50% on the minimum uninsured and underinsured motorist coverages allowed by section 1734, prior to the effective date of this section.

(iii) At least 15% on the first party benefits required by section 1711, prior to the effective date of this section.

(3) Increased limits factors shall also be appropriately adjusted.

(4) The Insurance Commissioner shall permit rate reductions greater or lower than those indicated in this subsection upon demonstration by an insurer that the rate reductions provided for in this subsection result in rates that are excessive, inadequate or unfairly discriminatory. Any rate filing submitted by an insurer to request adjustments in these rate reductions may be disapproved without prior hearing.

(c) Rate freeze.—No insurer nor the Assigned Risk Plan may increase any bodily injury liability rate, first party medical benefits rate up to the limit available under section 1715(a)(1) (relating to availability of adequate limits), or uninsured/underinsured motorists rate of an insured electing the limited tort alternative of section 1705, for a period of two years commencing on the date the commissioner approves an insurer's new rate under this section. The rate freeze for those electing the full tort alternative under section 1705 shall apply only to first party medical benefit rate up to the limit available under section 1715(a)(1). During the two-year period of the rate freeze, rates and premiums subject to the freeze may only be adjusted if the commissioner finds that current rates are excessive, inadequate or unfairly discriminatory.

(d) Calculation of rates.—Notwithstanding any other provision of law to the contrary, in all rate filings subsequent to the initial filing required by subsection (a), the bodily injury liability insurance rates shall be calculated both by taking into account the experience of insureds and by providing the limited tort electors with premium savings to reflect the industrywide reductions in losses created by their election.

Section 32. Sections 1960 and 3102 of Title 75 are amended to read:

§ 1960. Reinstatement of registration or operating privilege.

The department shall charge a fee of [§25] \$50 to restore a registration or a person's operating privilege following a suspension or revocation.

§ 3102. Obedience to authorized persons directing traffic.

(a) General rule.—No person shall willfully fail or refuse to comply with any lawful order or direction of any uniformed police officer, sheriff or constable or any appropriately attired person authorized to direct, control or regulate traffic.

(b) Appointment of temporary personnel.—

(1) At the request of an owner or operator of an industrial facility, office park, stadium, arena, race track or any other facility as determined by the department by regulation, a local authority shall have the power and may appoint temporary personnel to direct traffic in the immediate vicinity of the facility. All costs incurred in this program shall be paid by the owner or operator of the requesting facility.

(2) A person authorized to direct traffic under paragraph (1) shall be in a uniform of a type approved by the local authority and shall have received the training necessary to direct traffic as required by the local authority.

Section 33. Section 3731(a) of Title 75 of the Pennsylvania Consolidated Statutes is amended and the section is amended by adding a subsection to read:

§ 3731. Driving under influence of alcohol or controlled substance.

(a) Offense defined.—A person shall not drive, operate or be in actual physical control of the movement of any vehicle while:

(1) under the influence of alcohol to a degree which renders the person incapable of safe driving;

(2) under the influence of any controlled substance, as defined in the act of April 14, 1972 (P.L.233, No.64), known as [']The Controlled Substance, Drug, Device and Cosmetic Act.['] to a degree which renders the person incapable of safe driving;

(3) under the combined influence of alcohol and any controlled substance to a degree which renders the person incapable of safe driving; or

(4) except as provided in subsection (a.1), the amount of alcohol by weight in the blood of the person is [0.10%] 0.08% or greater.

(a.1) Operators of commercial vehicles.—

(1) If the person was driving, operating or in actual physical control of the movement of a commercial vehicle as defined in paragraph (2), the maximum allowable amount of alcohol by weight in the blood of the person under subsection (a)(4) is 0.04%.

(2) As used in this subsection, "commercial vehicle" means any of the following:

(i) A vehicle with a gross vehicle weight rating of 26,001 or more pounds.

(ii) A combination of vehicles with a gross combination weight rating of 26,001 or more pounds, including the gross vehicle weight rating of the towed unit or units.

(iii) A vehicle which is designed to transport 16 or more passengers, including the driver.

(iv) A vehicle which is required to be placarded for hazardous materials.

Section 34. If section 1705(d) (relating to election of tort options) is held invalid, then section 1799(b) (relating to rates) shall be void. However, nothing in this section shall affect the validity of section 1705(d) if section 1799(b) is held invalid; in such instance, these provisions are declared severable. All other provisions of this act are declared to be severable.

Section 35. Each rule or regulation of the Insurance Department in effect on the effective date of this act shall remain in effect until repealed or amended.

Section 36. (a) The following acts and parts of acts are repealed:

Sections 349, 349.1 and 654(f) of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

Sections 737(d), (e), (f) and (g), 740 and 749 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

Sections 604, 623, 633, 633.1 of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of one thousand nine hundred and twenty-one.

Sections 4(d), (e), (f) and (g), 5 and 17 of the act of June 11, 1947 (P.L.538, No.246), known as The Casualty and Surety Rate Regulatory Act.

Sections 4(d), (e), (f), (g) and (h), 5 and 16 of the act of June 11, 1947 (P.L.551, No.247), known as The Fire, Marine and Inland Marine Rate Regulatory Act.

Act of June 5, 1968 (P.L.140, No.78), entitled "An act regulating the writing, cancellation of or refusal to renew policies of automobile insurance; and imposing powers and duties on the Insurance Commissioner therefor."

Act of July 22, 1974 (P.L.589, No.205), known as the Unfair Insurance Practices Act.

Section 16 of the act of December 5, 1974 (P.L.782, No.263), entitled "An act amending the act of June 2, 1915 (P.L.736, No.338), entitled, as amended, 'An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing an elective schedule of

compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties,' further defining 'maximum weekly compensation payable' and 'the maximum compensation payable per week'; making the act compulsory and providing for actions at law for damages for certain noncompliance; providing for extraterritorial coverage; changing the waiting period and payments in connection therewith, computation and distribution of certain compensation and agricultural labor coverage; and incorporating certain existing coverages with changes as to computation of compensation thereunder."

75 Pa.C.S. § 1795 (relating to insurance fraud reporting immunity).

(b) All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 37. This act shall apply to all insurance rate filings made on or after the effective date specified in section 32(1).

Section 38. This act shall take effect as follows:

(1) Sections 4, 5, 6, 8, 9, 10, 14, 23 (sections 1741, 1742, 1743 and 1744), 31, 34, 35, 36, 37 and this section shall take effect immediately.

(2) Sections 11 (section 1547) and 33 shall take effect in 30 days.

(3) Sections 1, 2, 3 and 32 (section 3102) shall take effect in 60 days.

(4) Section 12 shall take effect in 90 days.

(5) The remainder of this act shall take effect the first day of the first month six months after enactment.

On the question,

Will the Senate agree to the amendment?

Senator SCANLON. Mr. President, I am very pleased to offer what has been characterized as the Governor's automobile insurance proposal, and it was previously offered to this Body back in June. I am offering it once again with some major and some minor changes, which I will explain as briefly as I can within the confines of the time. I want to preface my interest in this amendment by first stating that I have been a trial lawyer all of my professional life, and before I became a Legislator, I made my living in the trial field of practice. The law firm that I am associated with in Pittsburgh is a very active trial firm and those are where my interests are. I must say in 1971, the first time we had mandatory no-fault insurance, I voted against it and spoke against it. Within the last several years when we repealed it, I voted to repeal it because philosophically I am opposed to mandatory no-fault insurance. I am opposed to the government taking away from the people mandatorily a right to use the courts. However, that is not the situation in this particular amendment. This is an optional limited tort situation. If a person wants to obtain no-fault insurance with the benefits that go along with it, it is his or her option. Nobody is forcing them to. For that reason I think it is wholly within the proscriptions of the Constitution of Pennsylvania. It has been discussed before and everybody knows what it is all about, but I would like to remind a few people what the limited optional system means. There is a verbal threshold. A person may file a suit if his special damages supersede or surpass the verbal threshold, which is defined as death, serious impairment of a bodily function or permanent and serious disfigurement. It is substantially the same definition as was in the amendments back in June.

However, one of the changes in this current amendment is that the decision as to whether or not the plaintiff has exceeded the verbal threshold is a matter of law rather than a question for a jury. In short, if a suit is filed and testimony is adduced setting forth the injuries, the court will decide whether or not the threshold has been met rather than leaving it up to the figuring of a jury. That is one major change. Other changes were there are no provisions in this amendment for data disclosure. There are no provisions in this amendment creating an office of Consumer Advocate, it being felt that those matters could be taken care of with other legislation at another time. I would like to point out that if a person elects the limited tort option, he may still file suit, notwithstanding the threshold, if he is injured by a drunken driver, an uninsured motorist, an out-of-state driver or if injured while an occupant of a commercial motor vehicle. He still has those rights to file suit, notwithstanding his election to pursue the limited tort option. In the event the insured person elects to accept the limited tort option, there will be a mandated increase of 65 percent of his bodily injury coverage, 80 percent of his uninsured motorist and underinsured motorist coverage and at least 15 percent of his first-party benefits, reductions which are frozen for two years. Further, if a person elects to stay within the current tort system and maintains his right to sue, he would still be the recipient of at least a 5 percent reduction on his bodily injury premiums, at least 50 percent on his minimum uninsured motorist and underinsured motorist premiums and at least 15 percent on his first-party benefits. So, whether they decide, or elect, to take the limited tort option or the full tort option, there are reductions. One of the major things of this bill which differs from other things that have been floating through the Legislature is the first-party medical coverage is maintained at \$10,000 rather than being reduced. I think previously we passed a bill which reduced first-party medical coverage to \$5,000 if the insured had another policy, Blue Cross or something at his employment, which is fine except that it does not take care of the part-time employee or the person without a job or, generally, the poor people. It does not help them at all. Not only is the \$10,000 medical pay maintained at \$10,000, there is a medical cost containment provision that the medical provider can only be paid 110 percent of Medicaid payments. There is an exception, which is new. In the event the medical provider is a certified trauma center or it is a rehabilitation center that has really very expensive health delivery costs, they are exempt from the caps of 110 percent. There is a consumer provision that prohibits the practice of agents selling automobile insurance on condition that other types of insurance are purchased. For example, an agent would not be able to say, I will sell you automobile insurance if you also buy your homeowner's from me. That would be prohibited. Insurance fraud has been defined and classified as a felony of the third degree. It requires insurance companies to maintain records of anti-fraud plans, to advise the department, permits the department broad investigatory powers, including the power of subpoena to try to ferret it out and punish insurance fraud. Another

major change is that it lowers the blood alcohol level from .10 to .08 for driving under the influence of alcohol. Generally, those are the provisions of the plan. I would like to reiterate that it is optional, it is not mandatory and the reductions are not pie-in-the-sky or as the result of reduced benefits. The reductions are real and meaningful and, Mr. President, I ask that the Members of the Senate vote in favor of this amendment.

And the question recurring,

Will the Senate agree to the amendment?

Senator LOEPER offered the following amendment No. A4196 to the Scanlon amendment No. A4129:

Amend Amendments, page 1, lines 3 through 28, by striking out all of said lines and inserting:

Amending Titles 18 (Crimes and Offenses), 42 (Judiciary and Judicial Procedure) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for corrupt organizations; providing for insurance fraud; providing for certification of pleadings, motions and other papers; providing for special damages; further providing for vehicle registration; further providing for financial responsibility and insurance related to motor vehicles; providing for proof of insurance; further providing for reinstatement of operating privileges or vehicle registration; further providing for driving under the influence of alcohol or controlled substances; further providing for inspection of vehicles; providing for certain reductions in automobile insurance premiums; conferring powers and duties on the Insurance Department and the Department of Transportation; and making repeals.

Amend Amendments, page 1, lines 32 through 38; pages 2 through 54, by striking out all of lines 32 through 38, page 1 and all of pages 2 through 54 and inserting:

Section 1. Section 911(h) of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:

§ 911. Corrupt organizations.

(h) Definitions.—As used in this section:

(1) "Racketeering activity" means:

(i) any act which is indictable under any of the following provisions of this title:

Chapter 25 (relating to criminal homicide)

Section 2706 (relating to terroristic threats)

Chapter 29 (relating to kidnapping)

Chapter 33 (relating to arson, etc.)

Chapter 37 (relating to robbery)

Chapter 39 (relating to theft and related offenses)

Section 4108 (relating to commercial bribery and breach of duty to act disinterestedly)

Section 4109 (relating to rigging publicly exhibited contest)

Section 4117 (relating to automobile insurance fraud)

Chapter 47 (relating to bribery and corrupt influence)

Chapter 49 (relating to perjury and other falsification in official matters)

Section 5512 through 5514 (relating to gambling)

Chapter 59 (relating to public indecency)

(ii) any offense indictable under section 13 of the act of April 14, 1972 (P.L.233, No.64), known as ["']The Controlled Substance, Drug, Device and Cosmetic

Act["'] (relating to the sale and dispensing of narcotic drugs);

(iii) any conspiracy to commit any of the offenses set forth in subparagraphs (i) and (ii) of this paragraph; or

(iv) the collection of any money or other property in full or partial satisfaction of a debt which arose as the result of the lending of money or other property at a rate of interest exceeding 25% per annum or the equivalent rate for a longer or shorter period, where not otherwise authorized by law.

Any act which otherwise would be considered racketeering activity by reason of the application of this paragraph, shall not be excluded from its application solely because the operative acts took place outside the jurisdiction of this Commonwealth, if such acts would have been in violation of the law of the jurisdiction in which they occurred.

(2) "Person" means any individual or entity capable of holding a legal or beneficial interest in property.

(3) "Enterprise" means any individual, partnership, corporation, association or other legal entity, and any union or group of individuals associated in fact although not a legal entity, engaged in commerce.

(4) "Pattern of racketeering activity" refers to a course of conduct requiring two or more acts of racketeering activity one of which occurred after the effective date of this section.

(5) "Racketeering investigator" means an attorney, investigator or investigative body so designated in writing by the Attorney General and charged with the duty of enforcing or carrying into effect the provisions of this section.

(6) "Racketeering investigation" means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this section or of any order, judgment, or decree of any court duly entered in any case or proceeding arising under this section.

(7) "Documentary material" means any book, paper, record, recording, tape, report, memorandum, written communication, or other document relating to the business affairs of any person or enterprise.

Section 2. Title 18 is amended by adding a section to read:

§ 4117. Automobile insurance fraud.

(a) Offense defined.—A person commits an offense if the person does any of the following:

(1) Knowingly and with the intent to defraud a government or local agency files, presents or causes to be filed with or presented to the government or local agency a document that contains false, incomplete or misleading information concerning any fact or thing material to the agency's determination in approving or disapproving an automobile insurance rate filing, an automobile insurance transaction or other automobile insurance action which is required or filed in response to an agency's request.

(2) Knowingly and with the intent to defraud any insurer presents or causes to be presented to any insurer any statement forming a part of, or in support of, an automobile insurance claim that contains any false, incomplete or misleading information concerning any fact or thing material to the automobile insurance claim.

(3) Knowingly and with the intent to defraud any insurer assists, abets, solicits or conspires with another to prepare or make any statement that is intended to be presented to any insurer in connection with, or in support of, an automobile insurance claim that contains any false, incomplete or misleading information concerning any fact or thing material to the automobile insurance claim.

(4) Engages in unlicensed agent or broker activity as defined by the act of May 17, 1921 (P.L.789, No.285), known

as The Insurance Department Act of one thousand nine hundred and twenty-one, knowingly and with the intent to defraud an automobile insurer or the public.

(5) Knowingly benefits, directly or indirectly, from the proceeds derived from a violation of this section due to the assistance, conspiracy or urging of any person.

(6) Is the owner, administrator or employee of any health care facility, and knowingly allows the use of such facility by any person in furtherance of a scheme or conspiracy to violate any of the provisions of this section.

(7) Borrows or uses another person's financial responsibility identification card or permits his financial responsibility identification card to be used by another, knowingly and with intent to present a fraudulent automobile insurance claim for reimbursement to an insurer.

(8) Knowingly, for profit, gain, benefit, favor, or otherwise, makes any false oral statement, misrepresents, substitutes persons or realty or goods, subscribes to or prepares, or helps to prepare, any fraudulent letter, document, application, affidavit, inventory, financial or other statement, or in any method or manner attempts to deceive, for the purpose of obtaining for himself, herself, or others, automobile insurance provided for by the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921; or knowingly, for profit, gain, benefit, favor, or otherwise, prepares or forwards any fraudulent automobile insurance application.

(b) Additional offenses defined.—

(1) In a claim arising out of an automobile accident, a lawyer may not compensate or give anything of value to a non-lawyer to recommend or secure employment by a client or as a reward for having made a recommendation resulting in employment by a client; except that the lawyer may pay:

(i) the reasonable cost of advertising or written communication as permitted by the rules of professional conduct; or

(ii) the usual charges of a not-for-profit lawyer-referral service or other legal service organization.

(2) With respect to a motor vehicle insurance benefit or claim, a health care provider may not compensate or give anything of value to a person to recommend or secure the provider's service to or employment by a patient or as a reward for having made a recommendation resulting in the provider's service to or employment by a patient; except that the provider may pay the reasonable cost of advertising or written communication as permitted by rules of professional conduct.

(3) A person may not receive compensation, a reward or anything of value in return for providing names, addresses, telephone numbers or other identifying information of victims involved in automobile accidents to a lawyer or health care provider which results in employment of the lawyer or health care provider by the victims for purposes of a motor vehicle insurance claim or suit. Attempts to circumvent this paragraph through use of any other person, including, but not limited to, employees, agents or servants, shall also be prohibited. This provision shall not prohibit a lawyer or health care provider from making a referral as is permitted under applicable professional rules of conduct.

(c) Electronic claims submission.—If a claim for a benefit is made by means of computer billing tapes or other electronic means, it shall be a rebuttable presumption that the person knowingly made the claim if the person has advised the insurer in writing that claims for benefits will be submitted by use of computer billing tapes or other electronic means.

(d) Grading.—An offense under subsection (a)(1) through (7) is a felony of the third degree. An offense under subsection (a)(8) or (b) is a misdemeanor of the first degree.

(e) Restitution.—The court may, in addition to any other sentence authorized by law, sentence a person convicted of violating this section to make restitution under section 1106 (relating to restitution for injuries to person or property).

(f) Immunity.—An insurer, and any agent, servant or employee acting in the course and scope of his employment, shall be immune from civil or criminal liability arising from the supply or release of written or oral information to any entity duly authorized to receive such information by Federal or State law, or by Insurance Department regulations, only if both of the following conditions exist:

(1) the information is supplied to the agency in connection with an allegation of fraudulent conduct on the part of any person relating to the filing or maintenance of an insurance claim or bodily injury or property damage; and

(2) the insurer, agent, servant or employee has probable cause to believe that the information supplied is reasonably related to the allegation of fraud.

(g) Civil action.—An insurer damaged as a result of a violation of this section may sue therefor in any court of competent jurisdiction to recover compensatory damages, which may include reasonable investigation expenses, costs of suit and attorney fees. A successful claimant may recover treble damages if the court determines that the defendant has engaged in a pattern of violating this section.

(h) Criminal action.—The Attorney General and the district attorneys of the several counties shall have concurrent authority to institute criminal proceedings under the provisions of this section.

(i) Regulatory and investigative powers additional to those now existing.—Nothing contained in this section shall be construed to limit the regulatory or investigative authority of any department or agency of the Commonwealth whose functions might relate to persons, enterprises, or matters falling within the scope of this section.

(j) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Insurance claim.” A claim for payment or other benefit pursuant to an insurance policy.

“Insurance policy.” A document setting forth the terms and conditions of a contract of insurance.

“Insurer.” A company, association or exchange defined by section 101 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921; an unincorporated association of underwriting members; a hospital plan corporation; a professional health services plan corporation; a health maintenance organization; a fraternal benefit society; and a health insured health care entity under the act of October 15, 1975 (P.L.390, No.111), known as the Health Care Services Malpractice Act.

“Person.” Any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's insurer, fraternal benefit society, beneficial association and any other legal entity engaged or proposing to become engaged, either directly or indirectly, in the business of insurance, including agents, brokers, adjusters and health care plans as defined in 40 Pa.C.S. Chs. 61 (relating to hospital plan corporations), 63 (relating to professional health services plan corporations), 65 (relating to fraternal benefit societies) and 67 (relating to beneficial societies) and the act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act. For purposes of this section, health care plans, fraternal benefit societies and beneficial societies shall be deemed to be engaged in the business of insurance.

“Statement.” Any oral or written presentation or other evidence of loss, injury or expense, including, but not limited to, any notice, statement, proof of loss, bill of lading, receipt for

payment, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, X-ray, test result or computer-generated documents.

Section 3. Chapter 83 of Title 42 is amended by adding a section and a subchapter to read:

§ 8355. Certification of pleadings, motions and other papers.

Every pleading, motion and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individual name and his address shall be stated. A party who is not represented by an attorney shall sign his pleading, motion or other paper and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney or party constitutes a certification by him that he has read the pleading, motion or other paper; that, to the best of his knowledge, information and belief, it is well grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and that it is not interposed in bad faith or for any improper purpose, such as to harass another, or maliciously injure another or to cause unnecessary delay or increase in the cost of litigation. If a pleading, motion or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion or other paper is signed in violation of this section, the court shall award to the successful party costs and reasonable attorney fees in addition to a fine; the fine shall not exceed \$10,000. Such costs, fees and fines shall be in addition to any other judgment awarded to the successful party and shall be imposed upon the person who signed the pleading, motion or other paper, or a represented party, or both. This section is in addition to and shall not be construed to limit any other remedies or sanctions provided by law.

**SUBCHAPTER G
SPECIAL DAMAGES**

Sec.

8371. Actions on insurance policies.

§ 8371. Actions on insurance policies.

In an action arising under an insurance policy, if the court finds that the insurer has acted in bad faith toward the insured, the court may take all of the following actions:

- (1) Award interest on the amount of the claim from the date the claim was made by the insured in an amount equal to the prime rate of interest plus 3%.
- (2) Award punitive damages against the insurer.
- (3) Assess court costs and attorney fees against the insurer.

Section 4. Sections 1305 and 1306 of Title 75 are amended to read:

§ 1305. Application for registration.

(a) General rule.—Application for the registration of a vehicle shall be made to the department upon the appropriate form or forms furnished by the department. The application shall contain the full name and address of the owner or owners; the make, model, year and vehicle identification number of the vehicle; and such other information as the department may require. Applicants for registration of a truck, truck tractor, trailer or bus shall provide the vehicle's Gross Vehicle Weight Rating (GVWR), or the Gross Combination Weight Rating (GCWR), as applicable. If the manufacturer's ratings are not available, the applicant shall provide sufficient information as to the horsepower, braking capacity and such other data as necessary for the department to determine an equivalent measure of the vehicle's hauling and stopping capability. If the applicant wishes to register a vehicle at a registered gross weight less than the gross vehicle weight rating, the application shall include information as to weight, load and any other such information as the department may require. The application shall be accompanied by self-certification of financial responsibility and the applicable fee.

(b) Evidence of P.U.C. approval for buses and taxis.—Before registering any bus or taxi which is required under the laws of this Commonwealth to obtain a certificate of public convenience from the Pennsylvania Public Utility Commission, the department shall require evidence that the certificate has been issued and has not been revoked or has not expired.

(c) Designation of lessee as registrant.—The owner as lessor may designate the lessee as the registrant of the vehicle and the name and address of the lessee may be substituted on the registration card for the address of the lessor. The department shall designate the relationship upon the card in a manner it deems appropriate. This subsection is applicable only for the period during which the lease remains in effect.

(d) Self-certification of financial responsibility.—In addition to the other requirements to registration, the applicant shall file a self-certification of financial responsibility which shall include:

- (1) The complete name, address and telephone number of the applicant.
- (2) The name of the insurance company which is insuring the subject vehicle.
- (3) The policy number, effective date and expiration date of the policy of insurance insuring the vehicle.

§ 1306. Grounds for refusing registration.

The department shall refuse registration or renewal or transfer of registration when any of the following circumstances exists:

- (1) The applicant is not entitled to registration under the provisions of this chapter.
- (2) The applicant has at registration or titling neglected or refused to furnish the department with the information required on the appropriate official form, or any reasonable additional information required by the department.
- (3) The department has reasonable grounds to believe that the application contains false or fraudulent information, or that the vehicle is stolen, which fact the department shall ascertain by reference to the stolen vehicle file required to be maintained under section 7114 (relating to records of stolen vehicles), or that the granting of registration would constitute a fraud against the rightful owner or other person having a valid lien upon the vehicle.
- (4) The fees required by law have not been paid.
- (5) The vehicle is not constructed or equipped as required by this title.
- (6) The registration of the vehicle stands suspended for any reason as provided for in this title.
- (7) Self-certification of financial responsibility, as required under section 1305(d) (relating to application for registration) is not filed with the registration application.

Section 5. Title 75 is amended by adding a section to read:

§ 1318. Duties of agents.

(a) Verification of financial responsibility.—An agent who is authorized to issue on behalf of the department a vehicle registration renewal or temporary registration shall be required to verify financial responsibility prior to issuance.

(b) Proof.—Proof of financial responsibility shall be verified by examining one of the following documents:

- (1) An identification card as required by regulations promulgated by the Insurance Department.
- (2) The declaration page of an insurance policy.
- (3) A certificate of financial responsibility.
- (4) A valid binder of insurance issued by an insurance company licensed to sell automobile liability insurance in Pennsylvania.

Section 6. Sections 1376 and 1540(c) of Title 75 are amended to read:

§ 1376. Surrender of registration plates and cards upon suspension or revocation.

(a) General rule.—The department, upon suspending or revoking any registration, shall require the registration plate or plates and registration card or cards to be surrendered immediately to the department [and].

(b) Delegation of authority.—If within 35 days the registration plates and cards are not surrendered under subsection (a), the department may delegate authority to [any authorized department employee, member of the Pennsylvania State Police or local police officer to seize the registration plate or plates and registration card or cards.] the following persons to seize a registration plate and registration card which are required to be surrendered under subsection (a):

- (1) A designated department employee.
- (2) Members of the Pennsylvania State Police.
- (3) Local police officers.
- (4) Sheriffs or deputy sheriffs.
- (5) Constables or deputy constables. If constables and

deputy constables are delegated authority to seize registration plates and registration cards under this section, they shall be compensated by the department at the rate of \$15 for each registration plate and card jointly seized, plus mileage. The department shall pay a constable or deputy constable within 30 days after a documented request for payment is submitted to it.

(c) Regulations.—The department shall, by regulation, prescribe the manner of selecting [the employees and State and local police officers] those officials who are delegated authority under this section to seize the registration plates and registration cards.

(b) (d) Penalty.—Any person failing or refusing to surrender to the department or its authorized delegate, upon demand, any registration plate or card which has been suspended or revoked is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of [\$100] \$300, plus costs. Cost shall include a reasonable fee for official seizure of the unsundered items.

§ 1540. Surrender of license.

(c) Seizure of revoked and suspended licenses.—

(1) The department may delegate authority to [any authorized department employee, member of the Pennsylvania State Police or local police officer] the following persons to seize the driver's license of any person [when the operating privilege of that person has been revoked or suspended and his] whose driver's license has been ordered to be surrendered by a court or district attorney or by the department[.]:

- (i) A designated department employee.
- (ii) Members of the Pennsylvania State Police.
- (iii) Local police officers.
- (iv) Sheriffs or deputy sheriffs.
- (v) Constables or deputy constables. If constables

and deputy constables are delegated authority to seize drivers' licenses under this subsection, they shall be compensated by the department at the rate of \$15 for each driver's license seized, plus mileage. The department shall pay a constable or deputy constable within 30 days after a documented request is submitted to it.

(2) The department shall, by regulation, prescribe the manner of selecting [the employees and State and local police officers] those officials who are delegated authority under this subsection to seize the drivers' licenses.

Section 7. Section 1702 of Title 75 is amended by adding definitions to read:

§ 1702. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Commissioner.” The Insurance Commissioner of the Commonwealth.

“Necessary medical treatment and rehabilitative services.” Treatment, accommodations, products or services which are determined to be necessary by a licensed health care provider unless they shall have been found or determined to be unnecessary by a State-approved Peer Review Organization (PRO).

“Peer Review Organization” or “PRO.” Any Peer Review Organization with which the Federal Health Care Financing Administration or the Commonwealth contracts for medical review of Medicare or medical assistance services, or any health care review company, approved by the commissioner, that engages in peer review for the purpose of determining that medical and rehabilitation services are medically necessary and economically provided. The membership of any PRO utilized in connection with the act shall include representation from the profession whose services are subject to the review.

Section 8. Sections 1711, 1712, 1715(a), 1718(c), 1722 and 1731 of Title 75 are amended to read:

§ 1711. Required benefits.

(a) Medical benefit.—An insurer issuing or delivering liability insurance policies covering any motor vehicle of the type required to be registered under this title, except recreational vehicles not intended for highway use, motorcycles, motor-driven cycles or motorized pedalcycles or like type vehicles, registered and operated in this Commonwealth, shall include coverage providing a medical benefit in the amount of [\$10,000, an income loss benefit up to a monthly maximum of \$1,000 up to a maximum benefit of \$5,000 and a funeral benefit in the amount of \$1,500, as defined in section 1712 (relating to availability of benefits), with respect to injury arising out of the maintenance or use of a motor vehicle. The income loss benefit provided under this section may be expressly waived by the named insured provided the named insured has no expectation of actual income loss due to age, disability or lack of employment history. At the election of the named insured, such policy shall also include an extraordinary medical benefit as described in section 1715(a)(1.1) and (d) (relating to availability of adequate limits).] \$5,000.

(b) Minimum policy.—All insurers subject to this chapter shall make available for purchase an automobile insurance policy which contains only the minimum requirements of financial responsibility and medical benefits as provided for in this chapter.

§ 1712. Availability of benefits.

An insurer issuing or delivering liability insurance policies covering any motor vehicle of the type required to be registered under this title, except recreational vehicles not intended for highway use, motorcycles, motor-driven cycles or motorized pedalcycles or like type vehicles, registered and operated in this Commonwealth, shall make available for purchase first party benefits and uninsured and underinsured motorist coverage with respect to injury arising out of the maintenance or use of a motor vehicle as follows:

(1) Medical benefit.—[Coverage] Subject to the limitations of section 1797 (relating to customary charges for treatment), coverage to provide for reasonable and necessary medical treatment and rehabilitative services, including, but not limited to, hospital, dental, surgical, psychiatric, psychological, osteopathic, ambulance, chiropractic, licensed physical therapy, nursing services, vocational rehabilitation and occupational therapy, speech pathology and audiology, optometric services, medications, medical supplies and prosthetic devices, all without limitation as to time, provided that, within 18 months from the date of the accident causing injury,

it is ascertainable with reasonable medical probability that further expenses may be incurred as a result of the injury. Benefits under this paragraph may include any nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing.

- (2) Income loss benefit.—Includes the following:
 - (i) Eighty percent of actual loss of gross income.
 - (ii) Reasonable expenses actually incurred for hiring a substitute to perform self-employment services thereby mitigating loss of gross income or for hiring special help thereby enabling a person to work and mitigate loss of gross income.

Income loss does not include loss of expected income for any period following the death of an individual or expenses incurred for services performed following the death of an individual. Income loss shall not commence until five working days have been lost after the date of the accident. The total premium for all first party coverages for an insured who elects not to purchase an income loss benefit shall be reduced by at least 15%.

(3) Accidental death benefit.—A death benefit paid to the personal representative of the insured, should injury resulting from a motor vehicle accident cause death within 24 months from the date of the accident.

(4) Funeral benefit.—Expenses directly related to the funeral, burial, cremation or other form of disposition of the remains of a deceased individual, incurred as a result of the death of the individual as a result of the accident and within 24 months from the date of the accident. The total premium for all first party coverages for an insured who elects not to purchase a funeral benefit shall be reduced by at least 1%.

(5) Combination benefit.—A combination of benefits described in paragraphs (1) through (4) as an alternative to the separate purchase of those benefits.

(6) Uninsured and underinsured motorist coverage.

(7) Extraordinary medical benefits.—Medical benefits, as defined in paragraph (1), which exceed \$100,000.

§ 1715. Availability of adequate limits.

(a) General rule.—An insurer shall make available for purchase first party benefits and uninsured and underinsured motorist coverage as follows:

(1) For medical benefits, up to at least \$100,000.

(1.1) For extraordinary medical benefits, from \$100,000 to \$1,100,000, which may be offered in increments of \$100,000, as limited by subsection (d).

(2) For income loss benefits, up to at least \$2,500 per month up to a maximum benefit of at least \$50,000.

(3) For accidental death benefits, up to at least \$25,000.

(4) For funeral benefits, \$2,500.

(5) For combination of benefits enumerated in paragraphs (1) through (4) and subject to a limit on the accidental death benefit of up to \$25,000 and a limit on the funeral benefit of \$2,500, up to at least [§277,500] \$177,500 of benefits in the aggregate or benefits payable up to three years from the date of the accident, whichever occurs first, provided that nothing contained in this subsection shall be construed to limit, reduce, modify or change the provisions of subsection (d).

(6) Uninsured and underinsured motorist coverage in amounts equal to or less than the motor vehicle liability insurance required under this chapter.

§ 1718. Exclusion from benefits.

(c) Named driver exclusion.—An insurer or the first named insured may exclude any [insured] person or his personal representative from benefits under a policy enumerated in section 1711 or 1712 when [the insured] any of the following apply:

(1) The person is excluded from coverage while operating a motor vehicle in accordance with the act of June 5, 1968 (P.L.140, No.78), relating to the writing, cancellation of or refusal to renew policies of automobile insurance.

(2) The first named insured has requested that the person be excluded from coverage while operating a motor vehicle. This paragraph shall only apply if the excluded person is insured on another policy of motor vehicle liability insurance.

§ 1722. Preclusion of pleading, proving and recovering required benefits.

In any action for damages against a tortfeasor arising out of the maintenance or use of a motor vehicle, a person who is eligible to receive benefits under the coverages set forth in [section 1711 (relating to required benefits) or the coverage set forth in section 1715(a)(1.1) (relating to availability of adequate limits)] this subchapter shall be precluded from pleading, introducing into evidence or recovering the amount of benefits paid or payable under [section 1711 or 1715(a)(1.1)]. This preclusion applies only to the amount of benefits set forth in sections 1711 and 1715(a)(1.1) this subchapter.

§ 1731. [Scope] Availability, scope and amount of coverage.

(a) [General rule] Mandatory availability.—No motor vehicle liability insurance policy shall be delivered or issued for delivery in this Commonwealth, with respect to any motor vehicle registered or principally garaged in this Commonwealth, unless uninsured motorist and underinsured motorist coverages are [provided] made available therein or supplemental thereto in amounts equal to the bodily injury liability coverage except as provided in section 1734 (relating to request for lower [or higher] limits of coverage). Purchase of uninsured motorist and underinsured motorist coverages is optional, provided that the total premium for all first party coverages for an insured who elects not to purchase uninsured and underinsured motorist coverage benefit shall be reduced by at least 35%.

(b) Uninsured motorist coverage.—Uninsured motorist coverage shall provide protection for persons who suffer injury arising out of the maintenance or use of a motor vehicle and are legally entitled to recover damages therefor from owners or operators of uninsured motor vehicles. The insured may reject uninsured motorist coverage by signing the following written rejection form.

REJECTION OF UNINSURED MOTORIST PROTECTION

By signing this waiver I am rejecting uninsured motorist coverage under this policy, for myself and all relatives residing in my household. Uninsured coverage protects me and relatives living in my household for losses and damages suffered if injury is caused by the negligence of a driver who does not have any insurance to pay for losses and damages. I knowingly and voluntarily reject this coverage.

.....
Signature of First Named Insured

.....
Date

(c) Underinsured motorist coverage.—Underinsured motorist coverage shall provide protection for persons who suffer injury arising out of the maintenance or use of a motor vehicle and are legally entitled to recover damages therefor from owners or operators of underinsured motor vehicles. The insured may reject underinsured motorist coverage by signing the following written rejection form.

REJECTION OF UNDERINSURED MOTORIST PROTECTION

By signing this waiver I am rejecting underinsured motorist coverage under this policy, for myself and all relatives residing in my household. Underinsured coverage protects me and relatives living in my household for losses and damages suffered if injury is caused by the negligence of a driver who does not have enough

insurance to pay for all losses and damages. I knowingly and voluntarily reject this coverage.

.....
Signature of First Named Insured

.....
Date

(c.1) Form of waiver.—Insurers shall print the rejection forms required by subsections (b) and (c) on separate sheets in prominent type and location. The forms must be signed by the first named insured and dated to be valid. The signatures on the forms may be witnessed by an insurance agent or broker. Any rejection form that does not specifically comply with this section is void. If the insurer fails to produce a valid rejection form, uninsured or underinsured coverage, or both, as the case may be, under that policy shall be equal to the bodily injury liability limits. On policies in which either uninsured or underinsured coverage has been rejected, the policy renewals must contain notice in prominent type that the policy does not provide protection against damages caused by uninsured or underinsured motorists.

(d) Limitation on recovery.—A person who recovers damages under uninsured motorist coverage or coverages cannot recover damages under underinsured motorist coverage or coverages for the same accident.

Section 9. Section 1732 of Title 75 is repealed.

Section 10. Sections 1733 and 1734 of Title 75 are amended to read:

§ 1733. Priority of recovery.

(a) General rule.—Where multiple policies apply, payment shall be made in the following order of priority:

(1) A policy covering a motor vehicle occupied by the injured person at the time of the accident.

(2) A policy covering a motor vehicle not involved in the accident with respect to which the injured person is an insured.

(b) Multiple sources of equal priority.—The insurer against whom a claim is asserted first under the priorities set forth in subsection (a) shall process and pay the claim as if wholly responsible. The insurer is thereafter entitled to recover contribution pro rata from any other insurer for the benefits paid and the costs of processing the claim.

§ 1734. Request for lower [or higher] limits of coverage.

A named insured may request in writing the issuance of coverages under section 1731 (relating to availability, scope and amount of coverage) in amounts equal to or less than the limits of liability for bodily injury. [but in no event less than the amounts required by this chapter for bodily injury. If the named insured has selected uninsured and underinsured motorist coverage in connection with a policy previously issued to him by the same insurer under section 1731, the coverages offered need not be provided in excess of the limits of liability previously issued for uninsured and underinsured motorist coverage unless the named insured requests in writing higher limits of liability for those coverages.]

Section 11. Title 75 is amended by adding sections to read:

§ 1737. Rights to payment.

(a) Subrogation.—In claims arising out of the maintenance or use of an underinsured motor vehicle, there shall be no right of subrogation by an insurer with respect to the payment of underinsured motorist benefits.

(b) Condition to payment.—No policy of insurance shall require, as a condition to the payment of underinsured motorist benefits, the prior consent of the insurer to the settlement of a bodily injury claim with any person.

§ 1738. Stacking of uninsured and underinsured benefits.

When multiple vehicles are insured under one or more policies of insurance, the stated limit shall apply separately to each vehicle. The limits of coverage available under this subchapter for an insured shall be the sum of the limits for each motor vehicle as to which the injured person is an insured.

Section 12. Section 1753 of Title 75 is amended to read: § 1753. Benefits available.

An eligible claimant may recover medical benefits, as described in section 1712(1) (relating to availability of benefits), up to a maximum of \$5,000. No income loss benefit or accidental death benefit shall be payable under this subchapter. [Funeral expenses, as described in section 1712(4), in the amount of \$1,500 shall be recoverable as an offset to the maximum amount of medical benefits available under this section.]

Section 13. Section 1782 of Title 75 is amended by adding a subsection to read:

§ 1782. Manner of providing proof of financial responsibility.

(d) Financial responsibility identification cards.—Insurers shall provide financial responsibility identification cards to insureds which shall be valid only for the period for which coverage has been paid by the insured. Financial responsibility identification cards shall disclose the period for which coverage has been paid by the insured and shall contain such other information as required by the Insurance Department. In such instance where the insured has financed premiums through a premium finance company or where the insured is on an insurer-sponsored or agency-sponsored payment plan, financial responsibility identification cards may be issued for periods of six months even though such payment by the insured may be for a period of less than six months. Nothing in this paragraph shall be construed to require the immediate issuance of financial responsibility identification cards where an insured replaces an insured vehicle, adds a vehicle, or increases coverages under an existing policy for which a premium adjustment is required.

Section 14. Sections 1786 and 1791 of Title 75 are amended to read:

§ 1786. [Self-certification of] Required financial responsibility.

(a) Self-certification.—The Department of Transportation shall require that each motor vehicle registrant certify that the registrant is financially responsible at the time of registration or renewal thereof. The department shall refuse to register or renew the registration of a vehicle for failure to comply with this requirement or falsification of self-certification.

(b) Consent to produce proof of financial responsibility.—Upon registering a motor vehicle or renewing a motor vehicle registration, the owner of the motor vehicle shall be deemed to have given consent to produce proof to the Department of Transportation or a police officer that the vehicle registrant has the financial responsibility required by this chapter.

(c) Suspension of registration and operating privilege.—The Department of Transportation shall suspend or revoke the registration of a vehicle if it determines the required financial responsibility has not been secured as required by this chapter and may suspend the operating privilege of the registrant. The operating privilege shall not be restored until proof of financial responsibility is submitted, together with the restoration fee for operating privilege provided by section 1960 (relating to reinstatement of operating privilege or vehicle registration). Whenever the department revokes or suspends the registration of any vehicle under this chapter, the department shall not restore the registration until the vehicle owner furnishes proof of financial responsibility in a manner determined by the department and submits an application for registration to the department, accompanied by the fee for restoration of registration provided by section 1960.

(d) Obligations upon termination of financial responsibility.—

(1) An owner of a motor vehicle who ceases to maintain financial responsibility on a registered vehicle shall not operate or permit operation of the vehicle in this Commonwealth until proof of the required financial responsibility has been provided to the Department of Transportation.

(2) An insurer who has issued a contract of motor vehicle liability insurance, or any approved self-insurance entity, shall notify the department in a timely manner and in a method prescribed by the department's regulations.

(3) An insurer who has issued a contract of motor vehicle liability insurance and knows or has reason to believe that the contract is for the purpose of providing proof of financial responsibility shall notify the department if the insurance has been canceled or terminated by the insured or by the insurer. The insurer shall notify the department not later than ten days following the effective date of the cancellation or termination.

(4) A person who, after maintaining financial responsibility on the vehicle of another person, ceases to maintain such financial responsibility shall immediately notify the vehicle's owner, who shall not operate, or permit operation of, the vehicle in this Commonwealth.

(5) In the case of a person who leases any motor vehicle from a person engaged in the business of leasing motor vehicles, the lessee shall sign a statement indicating that the required financial responsibility has been provided through the lessor or through the lessee's motor vehicle liability insurance policy coverage. The lessee shall submit the statement to the lessor.

(e) Operation of a motor vehicle without required financial responsibility.—Any owner of a motor vehicle for which the existence of financial responsibility is a requirement for its legal operation shall not operate the motor vehicle or permit it to be operated upon a highway of this Commonwealth without the financial responsibility required by this chapter and shall, upon request of a police officer or the department, produce proof of financial responsibility on a form provided by the department. Any person who fails to comply with this subsection commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$300; and the department shall suspend the operating privilege of the person for 30 days.

(f) Time limit to produce proof.—Failure of a registered vehicle owner to provide proof of financial responsibility in a form authorized by Insurance Department regulation within 15 days of a request by the department for the proof provided for in subsection (e) shall subject the owner to an additional civil penalty of \$200 and to a three-month revocation of vehicle registration.

(g) Defenses.—

(1) No person shall be convicted of failing to produce proof of financial responsibility under section 3743 (relating to accidents involving damage to attended vehicle or property) or 6308 (relating to investigation by police officers), if the person produces, at the office of the issuing authority within five days of the date of the violation, proof that he possessed the required financial responsibility at the time of the violation.

(2) No person shall be penalized for maintaining a registered motor vehicle without financial responsibility under subsection (c) if the registration and license plates were surrendered to the Department of Transportation at the time insurance coverage terminated or financial responsibility lapsed.

(h) Lack of knowledge.—No person, other than a registrant, who proves that he was authorized to drive the vehicle and that he did not know and had no reason to believe that the required financial responsibility had not been provided shall be convicted of failing to produce proof of financial responsibility as required under this section. In such case, however, the registrant may be charged with a violation.

§ 1791. Notice of available benefits and limits.

It shall be presumed that the insured has been advised of the benefits and limits available under this chapter provided the fol-

lowing notice in bold print of at least ten-point type is given to the applicant at the time of application for original coverage [or at the time of the first renewal after October 1, 1984], and no other notice or rejection shall be required:

IMPORTANT NOTICE

Insurance companies operating in the Commonwealth of Pennsylvania are required by law to make available for purchase the following benefits for you, your spouse or other relatives or minors in your custody or in the custody of your relatives, residing in your household, occupants of your motor vehicle or persons struck by your motor vehicle:

(1) Medical benefits, up to at least \$100,000.

(1.1) Extraordinary medical benefits, from \$100,000 to \$1,100,000 which may be offered in increments of \$100,000.

(2) Income loss benefits, up to at least \$2,500 per month up to a maximum benefit of at least \$50,000.

(3) Accidental death benefits, up to at least \$25,000.

(4) Funeral benefits, \$2,500.

(5) As an alternative to paragraphs (1) through (4), a combination benefit, up to at least [\$277,500] \$177,500 of benefits in the aggregate or benefits payable up to three years from the date of the accident, whichever occurs first, subject to a limit on accidental death benefit of up to \$25,000 and a limit on funeral benefit of \$2,500, provided that nothing contained in this subsection shall be construed to limit, reduce, modify or change the provisions of section 1715(d) (relating to availability of adequate limits).

(6) Uninsured, underinsured and bodily injury liability coverage up to at least \$100,000 because of injury to one person in any one accident and up to at least \$300,000 because of injury to two or more persons in any one accident or, at the option of the insurer, up to at least \$300,000 in a single limit for these coverages, except for policies issued under the Assigned Risk Plan. Also, at least \$5,000 for damage to property of others in any one accident.

Additionally, insurers may offer higher benefit levels than those enumerated above as well as additional benefits. However, an insured may elect to purchase lower benefit levels than those enumerated above.

Your signature on this notice or your payment of any renewal premium evidences your actual knowledge and understanding of the availability of these benefits and limits as well as the benefits and limits you have selected.

If you have any questions or you do not understand all of the various options available to you, contact your agent or company.

If you do not understand any of the provisions contained in this notice, contact your agent or company before you sign.

Section 15. Title 75 is amended by adding a section to read: § 1791.1. Disclosure of premium charges.

(a) Invoice.—At the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum automobile insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type:

The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, require that you purchase only liability and medical benefit coverages to comply with Pennsylvania law. Any additional coverages or coverages in excess of the limits required by law are

provided only at your request as enhancements to basic coverages.

The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured's existing coverages.

(b) Cost information.—Upon an oral or written request, an insurer subject to this chapter shall provide to the requestor information on the requestor's cost to purchase from the insurer the minimum automobile insurance coverages required under this chapter. This requirement shall include the request for and provision of information by telephone.

Section 16. Sections 1792 and 1797 of Title 75 are amended to read:

§ 1792. Availability of uninsured, underinsured, bodily injury liability and property damage coverages and mandatory deductibles.

(a) Availability of coverages.—Except for policies issued under Subchapter D (relating to Assigned Risk Plan), an insurer issuing a policy of bodily injury liability coverage pursuant to this chapter shall make available for purchase higher limits of uninsured, underinsured and bodily injury liability coverages up to at least \$100,000 because of injury to one person in any one accident and up to at least \$300,000 because of injury to two or more persons in any one accident or, at the option of the insurer, up to at least \$300,000 in a single limit for these coverages. Additionally, an insurer shall make available for purchase at least \$5,000 because of damage to property of others in any one accident. However, the exclusion of availability relating to the Assigned Risk Plan shall not apply to damage to property of others in any one accident.

(b) Mandatory deductibles.—

(1) Every private passenger automobile insurance policy providing collision coverage issued or renewed on or after the effective date of this subsection, shall provide a deductible in an amount of \$500 for collision coverage, unless the named insured signs a statement indicating the insured is aware that the purchase of a lower deductible is permissible and that there is an additional cost of purchasing a lower deductible, and the insured agrees to accept it.

(2) Under no circumstances may a private passenger automobile insurance policy provide a collision deductible in an amount less than \$100.

(3) Any person or entity providing financing to the purchaser of a motor vehicle or otherwise holding a security interest in a motor vehicle shall not be permitted to require the purchase of a deductible for less than \$500 for collision and comprehensive coverages. Any financial institution, insurer, agent or other person or entity found to have violated this provision shall be required to reimburse the policyholder in an amount equal to the difference and, in addition, shall be required to pay a civil penalty of \$500 to the Department of Transportation for each violation.

(4) With the purchase of a \$500 or greater deductible, there shall be an immediate commensurate reduction in rate for collision and comprehensive coverages. The reduction in rate shall be based on the insured's existing deductible level. Should the insured elect to purchase a deductible in an amount equal to or exceeding \$100, there shall be an immediate commensurate reduction in rate for collision and comprehensive coverages, but only as it relates to the insured's existing deductible rate.

§ 1797. Customary charges for treatment.

(a) General rule.—A person or institution providing treatment, accommodations, products or services to an injured person for an injury covered by [medical or catastrophic loss benefits] liability or first party medical benefits for a motor vehicle described in Subchapter B (relating to motor vehicle liability insurance first party benefits), shall not [make a charge] require,

request or accept payment for the treatment, accommodations, products or services in excess of [the amount the person or institution customarily charges for like treatment, accommodations, products and services in cases involving no insurance.] 110% of the prevailing charge at the 75th percentile; 110% of the applicable fee schedule, the recommended fee or the inflation index charge; or 110% of the diagnostic related groups (DRG) payment; whichever pertains to the specialty service involved, determined to be applicable in this Commonwealth under the Medicare program for comparable services at the time the services were rendered, or the provider's usual and customary charge, whichever is less. If a prevailing charge, fee schedule, recommended fee, inflation index charge or DRG payment has not been calculated under the Medicare program for a particular treatment, accommodation, product or service, the amount of the payment may not exceed 80% of the provider's usual and customary charge. If acute care is provided in an acute care facility to a patient with an immediately life-threatening or urgent injury by a Level I or Level II trauma center accredited by the Pennsylvania Trauma Systems Foundation under the act of July 3, 1985 (P.L. 164, No. 45), known as the Emergency Medical Services Act, or to a major burn injury patient by a burn facility which meets all the service standards of the American Burn Association, the amount of payment may not exceed the usual and customary charge. Providers subject to this section may not bill the insured directly but must bill the insurer for a determination of the amount payable. The provider shall not bill or otherwise attempt to collect from the insured the difference between the provider's full charge and the amount paid by the insurer.

(b) Peer review plan for challenges to reasonableness and necessity of treatment.—

(1) Peer review plan.—Insurers shall contract jointly or separately with any peer review organization established for the purpose of evaluating treatment, health care services, products or accommodations provided to any injured person. Such evaluation shall be for the purpose of confirming that such treatment, products, services or accommodations conform to the professional standards of performance and are medically necessary. An insurer's challenge must be made to a PRO within 90 days of the insurer's receipt of the provider's bill for treatment or services or may be made at any time for continuing treatment or services.

(2) PRO reconsideration.—An insurer, provider or insured may request a reconsideration by the PRO of the PRO's initial determination. Such a request for reconsideration must be made within 30 days of the PRO's initial determination. If reconsideration is requested for the services of a physician or other licensed health care professional, then the reviewing individual must be, or the reviewing panel must include, an individual in the same specialty as the individual subject to review.

(3) Pending determinations by PRO.—If the insurer challenges within 30 days of receipt of a bill for medical treatment or rehabilitative services, the insurer need not pay the provider subject to the challenge until a determination has been made by the PRO. The insured may not be billed for any treatment, accommodations, products or services during the peer review process.

(4) Appeal to court.—A provider of medical treatment or rehabilitative services or merchandise or an insured may challenge before a court an insurer's refusal to pay for past or future medical treatment or rehabilitative services or merchandise, the reasonableness or necessity of which the insurer has not challenged before a PRO. Conduct considered to be "wanton" shall be subject to a payment of treble damages to the injured party.

(5) PRO determination in favor of provider or insured.—If a PRO determines that medical treatment or

rehabilitative services or merchandise were medically necessary, the insurer must pay to the provider the outstanding amount plus interest at 12% per year on any amount withheld by the insurer pending PRO review.

(6) Court determination in favor of provider or insured.—If pursuant to paragraph (4) a court determines that medical treatment or rehabilitative services or merchandise were medically necessary, the insurer must pay to the provider the outstanding amount plus interest at 12%, as well as the costs of the challenge and all attorney fees.

(7) Determination in favor of insurer.—If it is determined by a PRO or court that a provider has provided unnecessary medical treatment or rehabilitative services or merchandise or that future provision of such treatment, services or merchandise will be unnecessary, or both, the provider may not collect payment for the medically unnecessary treatment, services or merchandise. If the provider has collected such payment, it must return the amount paid plus interest at 12% per year within 30 days. In no case does the failure of the provider to return the said payment obligate the insured to assume responsibility for payment for the treatment, services or merchandise.

(c) Review authorized.—By December 1, 1991, the Legislative Budget and Finance Committee shall commence a review of the impact of this section. Such review may be conducted biennially.

Section 17. Title 75 is amended by adding sections to read:
§ 1799.1. Restraint system.

(a) General rule.—All insurance companies authorized to write private passenger automobile insurance within this Commonwealth shall reduce the premiums for first party coverages as defined in section 1712 (relating to availability of benefits) for any insured vehicle equipped with a passive restraint system for front seat passengers: 15% for passive seat belts, 20% for one air bag on the driver's side of the vehicle or 30% for two air bags.

(b) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Passive restraint.” Any frontal automobile crash protection system which requires no action of the vehicle occupants and complies with standard 751.208 of the National Traffic Safety Administration or its successor.

§ 1799.2. Antitheft devices.

(a) General rule.—All insurance companies authorized to write private passenger automobile insurance within this Commonwealth shall reduce by 10% the premiums for comprehensive coverage for all insured vehicles equipped with passive antitheft devices.

(b) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Passive antitheft device.” Any item or system installed in an automobile which is activated automatically when the operator turns the ignition key to the off position and which is designed to prevent unauthorized use, as prescribed by regulations of the department. The term does not include an ignition interlock provided as a standard antitheft device by the original automobile manufacturer.

§ 1799.3. Driver improvement course discounts.

(a) Motor vehicle driver improvement course.—Every insurer which writes a policy of automobile insurance in this Commonwealth shall reduce by 5% the total premium charged for each vehicle for those insureds 55 years of age and older for a three-year period after they successfully complete a motor vehicle driver improvement course meeting the standards of the department.

(b) Completion of course.—Upon successfully completing the approved course, each participant shall be issued, by the

course's sponsoring agency, a certificate which shall be the basis of qualification for the discount on insurance.

(c) Continuing eligibility.—Each participant shall take an approved course every three years to continue to be eligible for the discount on insurance. Each insurer may require, as a condition of providing and maintaining the discount, that the insured for a three-year period after course completion:

(1) not be involved in an accident for which the insured is chargeable; and

(2) not have any accumulation of points for a traffic violation.

(d) Nonapplicability.—This section shall not apply in the event the approved course is specified by a court or other governmental entity resulting from a moving traffic violation.

§ 1799.4. Good driver discount.

Every insurer which writes a policy of automobile insurance in this Commonwealth shall reduce by 10% the total premium charged for each vehicle as to which no at-fault claim has been filed for five consecutive years immediately preceding the period for which the policy is written if none of the drivers named in the policy has committed a moving violation during the five-year period which resulted in a conviction or which remains unresolved.

(1) If a violation which is unresolved at the time the policy is written results in an acquittal, the discount shall be allowed either as a refund or as a credit on a subsequent policy.

(2) For the purpose of this section, the term “conviction” includes a plea of guilty, a plea of nolo contendere, a finding of guilty by a court, an unvacated forfeiture of bail or collateral deposited to secure a defendant's appearance in court, and a payment by any person charged with a violation of the fine prescribed for the violation.

§ 1799.5. Limit on surcharges, late penalties and point assignments.

(a) Property damage claims.—No surcharge, rate penalty or driver record point assignment shall be made if the aggregate cost to the insurer of repair or replacement of property damaged or bodily injury liability is determined to be less than \$650 in excess of any self-insured retention or deductible applicable to the named insured.

(b) First party medical claims.—No surcharge, rate penalty or driver record point assignment shall be made as a result of an insurer paying a first party medical claim.

(c) Notice to insured.—If an insurer makes a determination to impose a surcharge, rate penalty or driver record point assignment, the insurer shall inform the named insured of the determination and shall specify the manner in which the surcharge, rate penalty or driver record point assignment was made and clearly identify the amount of the surcharge or rate penalty on the premium notice for as long as the surcharge or rate penalty is in effect.

(d) Adjustment of cap.—The Insurance Department, at least once every three years, shall adjust the \$650 cap or limit on the property damage or bodily injury liability surcharge, rate penalty or driver record point assignment scheme relative to changes in the components of the Consumer Price Index (Urban) to measure seasonally adjusted changes in medical care and automobile maintenance and repair costs and shall make such adjustments to the cap or limit as shall be necessary to maintain the same rate of change in the cap or limit as has occurred in the Consumer Price Index (Urban). Such adjustments may be rounded off to the nearest \$50 figure.

§ 1799.6. Examination of vehicle repairs.

Upon request of the insurer, an insurance adjuster shall be afforded a reasonable opportunity to enter a repair facility and examine covered repairs being made to a specific insured's vehicle at a mutually arranged time during regular business hours.

§ 1799.7. Conduct of market study.

(a) Duty of Insurance Department.—The Insurance Department may authorize a market conduct study of private passenger automobile insurers.

(b) Purposes of study.—The purposes of the study shall be to:

- (1) Determine extent of insurer competition.
- (2) Determine the number of uninsured motorists.
- (3) Determine extent of insurer profits and losses.
- (4) Determine if all rate filings are reasonable in terms of statutory and regulatory requirements.
- (5) Determine the validity of existing rating territories and if rate differentials between or among rating territories is justified by the losses.
- (6) Determine if the various policies for automobile insurance written in this Commonwealth are available equally to each resident.

§ 1799.8. Conduct of random field surveys.

(a) Authority.—In furtherance of the purposes and goals of section 1799.7 (relating to conduct of market study), the Insurance Department may conduct field surveys in this Commonwealth. The field survey shall:

- (1) Determine the geographical area to be surveyed.
- (2) Establish a list of insurance producers in the surveyed area or its immediate neighborhood.
- (3) Construct hypothetical risk examples and obtain premium quotations.
- (4) Develop a tentative list of questions for the agents.
- (5) Interview agents at their offices and obtain premium quotations from the agent for each company represented by that agent.
- (6) Sort and categorize information.
- (7) Construct a table displaying quotations by insurer, area and risk.
- (8) Write a report of the findings.

(b) Conjunctive analysis of market study and field survey.—The department may analyze information collected from insurance companies under section 1799.7 in conjunction with information collected from field surveys. This analysis may be ongoing.

§ 1799.9. Insurance in cities of the first class.

(a) Study by the Insurance Department.—By February 1, 1991, the Insurance Department shall commence a study of the use of a single carrier for automobile insurance in cities of the first class. The term “single carrier” includes a private insurance company or a public authority or agency specifically created for the implementation of this section. Upon completion, the study shall be delivered to the Majority and Minority Leaders of the Senate and the House of Representatives. The study shall include, at a minimum, the following components:

- (1) An assessment of the number of uninsured vehicles in cities of the first class.
- (2) An assessment of the number of insured vehicles in cities of the first class.
- (3) An analysis of sources of automobile insurance, by company, of vehicles in cities of the first class. The analysis shall include a determination of the number of vehicles insured in cities of the first class in both the voluntary market and the Assigned Risk Plan by each insurance carrier licensed to provide automobile insurance in this Commonwealth.
- (4) An analysis of the costs to motorists to insure a vehicle in cities of the first class in the voluntary market and through the Assigned Risk Plan.
- (5) An assessment of the impact of “take-out” provisions on the voluntary market place in cities of the first class.
- (6) A determination as to the number of lawsuits filed for bodily injury claims; the amount and type of damages requested in such lawsuits; the percentage of claims settled

before court and the amount of settlement; the percentage of lawsuits decided by the court and the amount of damages awarded; and the fees charged by lawyers for representing claims.

(7) An assessment of the frequency, type and amount of physical damage claims and first party medical payments.

(8) A determination as to whether the use of a single carrier in cities of the first class would have a positive financial impact on all motorists in such cities and in this Commonwealth. Such determination shall include an analysis of the use of a public authority or agency as the single carrier and of its potential for providing lower rates when compared to use of a private insurance company as a single carrier.

(9) A legal opinion as to whether the use of a single carrier in cities of the first class is permissible under the Constitution and laws of the Commonwealth.

(b) Duties of insurance companies.—Insurance companies licensed in this Commonwealth to write policies of automobile insurance coverage shall cooperate with the Insurance Department study as described in subsection (a). Cooperation shall include, but not be limited to, the provision of information by insurance companies within reasonable time frames as requested by the department, if the information is available, to be used to address the various components of the study described in subsection (a). Such information may be used by the department only for purposes of this study.

(c) Implementation of Single Carrier Insurance Program in cities of the first class.—If a study undertaken under subsection (a), section 1799.7 (relating to conduct of market study) or section 1799.8 (relating to conduct of random field surveys) provides information supporting a conclusion that a single carrier in cities of the first class will improve the availability and affordability of automobile insurance in such cities and in this Commonwealth, the Insurance Department may implement the program. If the program is implemented, the Insurance Department shall develop regulations detailing the components and operation of a Single Carrier Insurance Program for cities of the first class and shall contract with a single carrier to implement such a program. The contract must be secured following the request for proposal process used by the Commonwealth to secure goods and services. The request for proposal process shall include a procedure for the prequalification of bidders based on financial ability to administer the program. Any contract signed by the department must include the following provisions:

(1) Participation in the program is voluntary by motorists living in cities of the first class.

(2) All drivers, except those determined to be ineligible as defined in subsection (d), shall be afforded the opportunity to purchase automobile insurance coverage through the program.

(3) Preferred provider arrangements or a fee schedule may be developed in the program with service providers for physical damage repair or replacement and medical benefits; such arrangements shall be accessible to the insureds.

(4) For physical damage coverage, the program may provide for a minimum deductible higher than that provided for in this subchapter, but in no case may the minimum deductible be greater than \$1,000.

(5) Antifraud mechanisms may be established, including the inspection of physical damage claims, investigation of suspicious claims, and case management for selected medical services.

(6) A cancellation clause permitting the single carrier to cancel the contract with 90 days’ notice should enrollment in the program fall below a percentage of the vehicles registered in cities of the first class. The percentage shall be established in the contract.

(7) The contract shall be valid for a period of not less than five years unless a shorter contract period is proposed by the single carrier.

(8) Rates charged in the program shall be lower than rates available in the voluntary market and shall be included in the contract and shall be valid for a period of not less than two years. Rate increases after this period shall be subject to approval as provided in the act of June 11, 1947 (P.L.538, No.246), known as The Casualty and Surety Rate Regulatory Act.

(d) Ineligible driver.—For purposes of subsection(c), the term “ineligible driver” shall mean a person who meets at least one of the following criteria:

(1) The person has, within five years of the date of application for insurance, been convicted of a violation of:

(i) section 3731 (relating to driving under the influence of alcohol or a controlled substance);

(ii) 18 Pa.C.S. § 4117 (relating to automobile insurance fraud); or

(iii) any felony involving the use of a motor vehicle.

(2) The person has previously been insured under a motor vehicle insurance policy and has made more than one claim under an insurance policy, within 36 months of the date of application for insurance under this section, arising out of an accident where the insured was found to be substantially at fault, that is, more than 50%, and where a payment was made by the insurer that exceeded 50% of the annual premium for the policy of insurance.

(3) The person’s operating privilege has been suspended or revoked within the preceding 36-month period.

(4) The person’s driving record shows six or more points assessed under section 1535 (relating to schedule of convictions and points) for violations that occurred within 36 months of the date of application for insurance under this section.

Section 18. Section 1960 of Title 75 is amended to read:

§ 1960. Reinstatement of operating privilege or vehicle registration.

The department shall charge a fee of \$25 or, if section 1786(c) (relating to required financial responsibility) applies, a fee of \$50 to restore a person’s operating privilege or the registration of a vehicle following a suspension or revocation.

Section 19. Title 75 is amended by adding a section to read:

§ 3731.1. Operators of commercial vehicles.

(a) Additional offense defined.—A person may not drive, operate or be in actual physical control of the movement of a commercial vehicle when the amount of alcohol by weight in the blood of the person is 0.04% or greater.

(b) Disqualification.—Upon receipt of a certified copy of a conviction of a violation of this section, the department shall disqualify the person from driving a commercial motor vehicle for a period of one year. Two or more convictions of a violation of this section shall result in the department disqualifying the person from driving a commercial motor vehicle, as provided in 49 C.F.R. § 383.51 (relating to disqualification of drivers).

(c) Definitions.—As used in this section, “commercial vehicle” means any of the following:

(1) A vehicle with a gross vehicle weight rating of 26,001 or more pounds.

(2) A combination of vehicles with a gross combination weight rating of 26,001 or more pounds, including the gross vehicle weight rating of the towed unit or units.

(3) A vehicle which is designed to transport 16 or more passengers, including the driver.

(4) A vehicle which is transporting hazardous material and which is required to be placarded for hazardous materials.

Section 20. Section 4703(d) of Title 75 is amended to read: § 4703. Operation of vehicle without official certificate of inspection.

(d) Newly-purchased vehicles.—Newly-purchased vehicles may be driven without a current inspection certificate for [five] ten days after sale or resale or entry into this Commonwealth, whichever occurs later.

Section 21. Section 4727 of Title 75 is amended by adding a subsection to read:

§ 4727. Issuance of certificate of inspection.

(d) Proof of insurance.—No certificate of inspection shall be issued unless a financial responsibility identification card indicating proper proof of financial responsibility as required by law is submitted to the inspection official, who shall, on a form provided by the department, keep a record of the name of the insured, the vehicle tag number, the issuing company, the policy number, and the expiration date. In those cases where the insured fails to present proof of financial responsibility to the inspection official, the inspection official, in addition to denying a certificate of inspection, may provide notification to the department on the form provided by the department within 30 days of the insured’s failure to present proof of financial responsibility.

Section 22. Section 6104 of Title 75 is amended by adding a subsection to read:

§ 6104. Administrative duties of department.

(f) Furnishing information to municipal police departments and sheriffs’ offices.—The department shall regularly transmit to each municipal police department and sheriff’s office a list of the names of persons residing within its jurisdiction whose operating privilege or registration has been suspended or revoked.

Section 23. Title 75 is amended by adding a section to read:

§ 6308.1. Payment to police or sheriff’s office of one-half of reinstatement fee.

The police department or sheriff’s office whose officers or deputies seize a suspended or revoked driver’s license or vehicle registration shall, in every case where the driver’s license or vehicle registration is reinstated, receive from the department one-half of the fee imposed under section 1960 (relating to reinstatement of operating privilege or vehicle registration).

Section 24. (a) Rate freeze.—In order to provide stability during the period of transition leading up to the effective date of the amendments to 75 Pa.C.S. Ch. 17 (relating to financial responsibility) and to assure fair and equitable treatment of insurer and insurers, it is in the best interest of the Commonwealth to temporarily suspend the adoption of new rates. Notwithstanding any provisions to the contrary, all rates approved prior to December 1, 1989, and in effect as of that date may not be changed until June 1, 1990. Any rate requests filed with the Insurance Department and not approved as of December 1, 1989, shall be disapproved as being in conflict with this act.

(b) Rate filing.—All insurers subject to 75 Pa.C.S. Ch. 17 shall file for new rates in compliance with subsections (c) and (d) by May 15, 1990. The rates shall be effective for one year, beginning June 1, 1990. A filing with an effective date after May 31, 1990, but before May 31, 1991, under section 4 of the act of June 11, 1947 (P.L.538, No.246), known as The Casualty and Surety Rate Regulatory Act, shall become effective immediately upon its filing and is deemed to comply with that act unless disapproved by the Insurance Commissioner under the procedures described in section 5 of that act. This subsection is limited to two filings per coverage. This subsection supersedes the prior approval requirements of The Casualty and Surety Rate Regulatory Act and regulations promulgated under that act insofar as they are inconsistent with this act.

(c) Rate rollback.—Total premiums charged by any insurer for an insured during the first 12-month period following the effective date of this act shall be reduced from the rates in effect on December 1, 1989, by 20% for a good driver as defined in 75 Pa.C.S. § 1799.4 (relating to good driver discount). Total premiums for an insured who does not meet the conditions of 75 Pa.C.S. § 1799.4 shall be reduced by 10%.

(d) Additional premium reductions.—Notwithstanding any other provisions of this act to the contrary, in addition to reductions provided in subsection (c) based on the premium reduction requirements contained in section 8 (75 Pa.C.S. §§ 1711, 1712 and 1731), section 16 (75 Pa.C.S. § 1792) and section 17 (75 Pa.C.S. §§ 1799.1, 1799.2 and 1799.3), the premiums for an insured shall be reduced up to a total of at least 30%. An insured who elects to purchase coverages as specified in those sections shall receive a reduction commensurate with the election.

(e) Rate increase justification.—Total premiums charged by an insurer for an insured during the second 12-month period following the effective date of this act may not be increased over the rates in effect on May 31, 1991, by an amount greater than that indicated by an increase in the Consumer Price Index, the cost of medical care services, the cost of automobile repairs or other cost increases affecting automobile insurance. By March 1, 1991, the Insurance Commissioner shall promulgate regulations containing the criteria which shall be used by insurers to justify any rate increases during that time period.

(f) Provision for insolvency.—The Insurance Commissioner shall permit rate reductions lower than those indicated in this section upon demonstration by an insurer that the rate reductions provided for in this section will result in insolvency of the insurer.

Section 25. (a) Insurers shall provide the following notice all policyholders no later than June 1, 1990:

IMPORTANT NOTICE

CHANGES IN REQUIRED INSURANCE BENEFITS

As a result of the Pennsylvania General Assembly's recent amendment to the Motor Vehicle Financial Responsibility Law, as of June 1, 1990, a number of automobile insurance coverages which you previously were required to purchase are now optional. These optional coverages are wage loss coverage, accidental death coverage, funeral expense benefits and uninsured/underinsured motorist coverage. In addition, the required medical benefit has been reduced to \$5,000. The recent amendment also provides discounts for policyholders who have vehicles with certain passive restraint systems and anti-theft devices. Please contact your agent for additional information.

(b) Insurers shall provide a notice to all policyholders upon application or renewal stating that discounts are available for drivers who meet the requirements of 75 Pa.C.S. §§ 1799.1 (relating to restraint system), 1799.2 (relating to anti-theft devices), 1799.3 (relating to driver improvement course discounts) and 1799.4 (relating to good driver discount).

Section 26. The Insurance Department and the Department of Transportation shall promulgate regulations to the extent necessary to carry out the provisions of sections 1 (18 Pa.C.S. § 911(h)), 2 (18 Pa.C.S. § 4117), 4 (75 Pa.C.S. §§ 1305 and 1306), 6 (75 Pa.C.S. §§ 1376 and 1540) and 14 (75 Pa.C.S. § 1786).

Section 27. (a) Section 349 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921 is repealed insofar as it is inconsistent with this act.

(b) Sections 604 and 623 of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of one thousand nine hundred and twenty-one are repealed.

Section 28. This act shall take effect as follows:

(1) Sections 24, 25, 26 and this section shall take effect immediately.

(2) Section 17 (75 Pa.C.S. §§ 1799.7, 1799.8 and 1799.9) shall take effect in 60 days. June 1, 1990, or immediately, whichever is later.

(3) Section 16 (75 Pa.C.S. § 1797) shall take effect April 1, 1990, or immediately, whichever is later.

(4) Section 19 (75 PA.C.S. § 3731.1) shall take effect April 1, 1992.

(5) The remainder of this act shall take effect June 1, 1990, or immediately, whichever is later.

On the question,

Will the Senate agree to the amendment to the amendment?

Senator LOEPER. Mr. President, as I had indicated in a previous interrogation with the gentleman from Philadelphia, I had planned to offer an amendment this evening to deal with the overall issue of automobile insurance and the problem that it poses to our motorists throughout the Commonwealth, specifically in the southeast. The amendment that I have presented before the Senate tonight contains what we believe to be a comprehensive auto insurance reform package. It will reduce rates substantially for Pennsylvania motorists. I reinforce that because I believe that is the bottom line—reduce rates substantially for Pennsylvania motorists. When we go back to our districts, our constituents are not going to care much about promises or finger pointing. They will want to know three things. What will happen to my auto insurance premiums? When will it happen? How long is it going to last?

If we approve this proposal this evening, Mr. President, I believe that we are going to be able to give our constituents the answers they not only expect, but surely deserve. Motorists who have a safe driving record will receive under this proposal a mandated 20 percent reduction in premiums. Every motorist will receive at least a 10 percent reduction across the board in premium reduction. The reduced rates will be by law and in effect until May 31, 1991, and there is a lid on increases for another year through May 31, 1992. It is viewed that during that time the array of changes that relate to controls on health care costs, tougher enforcement against insurance fraud, ambulance chasing, uninsured motorists, frivolous suits and the rest, will take effect and act to hold down the costs that we have viewed on the increase through the past several years. In addition, Mr. President, there are options in coverage and discounts for which motorists may qualify that would enable them to reduce their premiums further. By adopting a reform package we render the recent parade of rate hike requests before the Insurance Commissioner as unnecessary. That, Mr. President, is reform, rolling back rates now and holding them down in the future. The problems of auto insurance and the nature of the crisis is something, I think, on which we all agree. The conflict seems to come in trying to develop an effective solution. The solution satisfies the most basic test. What we have assembled here in this amendment I believe meets consumer demands for premium relief and has drawn significant consumer support. Obviously, we cannot magically cut auto insurance rates. That is why we have tried to tie real savings to measures that reduce costs—limits on medical payments, sanctions against ambulance chasing and filing frivolous lawsuits and the assorted types of insurance

fraud and the distinction, Mr. President, between good drivers and those drivers with less stellar records. Our approach which mandates savings built in up front, with additional savings provided, is notably different from the Governor's plan. While the Governor talks about the people versus the special interests, under his proposal it is the people who are paying the premiums who must give up something to attain anything beyond a minimal amount of savings.

In my view, Mr. President, this is not a good idea. Our plan also gives a clear time line for when motorists can expect to receive savings. The Governor's plan can offer no such assurance because the expected tangle of court challenges could take years to unravel while the motoring public is still paying high insurance premiums. We are reminded that California well demonstrates the serious difference between promising reductions and actually delivering them when the legislative vehicle is of a dubious nature. We have been working with the House Majority to achieve the strongest proposal yet, one that makes savings certain for all motorists and one that we believe has the muster to pass the General Assembly. Our commitment has been to pass auto insurance reform in 1989. We have before us this evening, I believe, a vehicle that can achieve that goal, a measure that attacks the causes of rising premiums, that penalizes the frivolous and fraudulent activity and it gives drivers the break each one of them deserves. By acting this week, Mr. President, we provide the Governor with a chance to sign a reform act that puts Pennsylvania back on the road to fairer insurance rates. Mr. President, I would ask for an affirmative vote on the amendment.

Senator LEWIS. Mr. President, we build upon some of the phraseology incorporated in the comments made by the gentleman from Delaware in order to set the stage for the comments I wish to make in support of the amendment that has been offered. I think that everyone who is concerned about this issue, and that is most Pennsylvanians, are seeking one fundamental objective and that is to reduce auto insurance rates in this Commonwealth. I agree with that, I want to achieve that end and I doubt there is anyone in this Chamber who does not feel that way. I think, again, most observers understand that in order to reach that milestone a fundamental change has to take place in terms of the auto insurance system as it is currently operating in Pennsylvania. Most importantly, it is obligatory for something to happen to change the current auto civil lawsuit situation. We know there are a variety of other items which need our attention. But there is nothing that is going to bring about a significant and long-term reduction in auto insurance premiums unless and until we deal with the runaway problem of auto civil lawsuits in Pennsylvania. The question then arises, how do we do that? I believe there are two very different approaches to this problem. The Governor proposes one. The amendment offered by the gentleman from Delaware, Senator Loeper, which I support, proposes a second. The proposal made by the Governor asks the people of Pennsylvania to give up something in order to solve the lawsuit problem. I say that I want those who are abusing the current system to give up

something in order to provide the solution. Mr. President, as I try to understand why we have the civil lawsuit problem that now exists, I am struck by some statistical facts which really cause me to pause. They indicate that the overwhelming majority of automobile-generated civil lawsuits in the Commonwealth of Pennsylvania are initiated in the County of Philadelphia. As I have tried to understand the reason for that, one thing has become very clear to me, and that is there does not appear to be an abuse of the current system by my constituents in Bucks County, nor does there appear to be an abuse of the system by the people who live in virtually all of the other counties of Pennsylvania. The statistical and numerical abuse is easily traced and identified to one geographical location. Why is that? What is it that could possibly be making that occur? As an attorney who has lived and practiced in southeastern Pennsylvania, I believe I have special insight into the answer to that question. What has become apparent to me is that there has developed an ambulance-chasing network that operates out of the County of Philadelphia that is fundamentally responsible for the civil lawsuit abuse that has skyrocketed the insurance rates for people all over this Commonwealth. This is a system which has fed upon and continues to thrive because of the peculiarities of the auto insurance law as it now exists in Pennsylvania. This is a system which exists only because of the laws which we have created in this Capitol that the Legislature has adopted and prior Governors have signed. It may seem overly simplistic, but that may be why it is so effective. The fundamental reason for the success of this ambulance-chasing mechanism is because of the peculiar laws we have created that relate and oblige the insurance carriers to make payments with regard to medical coverage and to lost-wage coverage. Put very simplistically, the insurance carriers are at a total loss to challenge or contest the sufficiency of the treatment that is taken by patients to challenge the necessity of missing time from work that gives rise to lost wages. In fact, there is a coterie of attorneys and physicians who thrive on abusing this system, and they do so not only because of the benefit to be gained from the insurance reimbursement for the medical services, but because we all know that the historical mechanism for trying to determine the value of a pain and suffering claim comes as a multiplier of the so-called special expenses. These are the expenses that relate to medical treatment and wage loss which supposedly are an example of the severity of your injury. Put into simple layman's terms, Mr. President, what happens is that these ambulance-chasing lawyers and doctors have found a built-in mechanism for abusing the system, for manufacturing claims that would otherwise not exist and not only, therefore, take off tens of thousands of dollars for each claimant in medical and wage-loss benefits, but then substantiate pain and suffering claims as a result of the initial fraud that has been perpetrated in the first instance.

Why is all of that of importance in this debate? Simply because if you want to get to the root of the abuse of the civil lawsuit problem, what you need to do is knock out the underpinnings of this ambulance-chasing mechanism that has devel-

oped. That means you need to eliminate these first-party benefits for medical and wage-loss provisions that currently exist in the law. I am absolutely convinced, Mr. President, if and when we do that, the overwhelming difficulty with regard to the abuse of the civil justice system will disappear. Interestingly, let us take a look at what we have if that occurs. We bring about the significant, long-term and guaranteed rate reductions that all of the people of Pennsylvania want because we have gotten to the heart of the problem. In doing that, we do not ask Bucks Countians or Pennsylvanians in any other place to give up one of their most fundamental rights, and that is access to the civil court system of this Commonwealth in order to adjudicate a grievance if they believe they have it.

Mr. President, nothing seems to be more simple and more fundamental than the proposition that if you want to change a problem, if you want to correct an abuse, then you had better go to the root causes of it and not merely try to deal with the superficialities. I have to say that I believe the proposal to ask every Pennsylvanian to give up the right to the access of the courts is dealing with the consequence, not the root cause of the problem, and I believe we have a much more fundamental responsibility than that. I should also say, Mr. President, I find it interesting that in the course of this debate, as it has moved into its areas of emotionalism and away from dealing with fundamental facts and basic concepts, there are some who have chosen to try to categorize their positions or disparage the positions of others by relating them to special interests and the defense of one or the abuse of another. Again, I think nothing could be more unfair to the people of this Commonwealth than to try to avoid dealing with fundamental issues, because there is enough special interest concern about every aspect of any of the proposals that talk about auto insurance reform that there is no one here who can make a proposition that is not supported or opposed in some way or another by one special interest. I have heard a lot of talk about the interest being expressed in certain propositions by trial lawyers and by the Insurance Federation, and there is no doubt that they are very keen targets to become the whipping posts, particularly when one or another happens to support a position that is not one that is supported by one of those two special interests. But I happen to know, from having been keenly interested in this, that there are as deeply held thoughts about one side or another by the Hospital Associations, by the Chamber of Commerce, by the labor organizations in this Commonwealth, and for anyone to try to suggest that his or her position is not supported by a special interest in one way or another is, just again, not dealing with the facts or the reality of the complexity of this whole auto insurance debate. I think it is unfortunate when anyone tries to resort to that kind of emotionalism, to move away from this kind of a debate with respect to the facts.

As a closing observation, Mr. President, I also have to say that as I have polled my constituents with regard to this issue, the thing they say to me most frequently, immediately following their fervent desire to have auto insurance rates reduced, is do something about uninsured motorists. I note that the pro-

posed amendment submitted by the gentleman from Delaware, Senator Loeper, is the first recommendation that deals extensively with this very difficult problem of uninsured motorists in Pennsylvania. I think that is an area that has gone unnoticed but which is recognized by Pennsylvanians as being another significant contributing factor to the high cost that those who do maintain their auto insurance have to pay because of the neglect of others. Any proposed auto insurance plan that does not address the problems of uninsured motorists is missing another key detail that is on the minds of many Pennsylvanians. Mr. President, the objective here this evening is to lower auto insurance rates for Pennsylvanians. I am committed to that proposal. I believe the plan and the amendment offered by Senator Loeper will achieve that objective, not only for tomorrow and next month and the first two years in which mandatory reductions are covered by any of these proposals, but much more importantly, for the long term it will assure and ensure reduced and consistently reduced rates for all Pennsylvanians, and that is an objective to which we should be committed.

Senator BELL. Mr. President, I will be brief. I listened to the gentleman from Bucks talk about the crooked lawyers and the crooked doctors. I am very pleased that the proposed bill in front of us today, which was developed by the Majority Leader of the House and the Majority Leader of the Senate, makes it a felony for crooked doctors. As Chairman of the Committee on Consumer Protection and Professional Licensure, I will pledge to the people of Pennsylvania that if the district attorneys convict them, I will push to see that they are removed from licensure. I also listened to my colleague, the gentleman from Philadelphia, Senator Fattah. When you get through with Philadelphia, come to Chester. We have the same problems, only less. For a young man to get a job, he has to drive a car. He has \$2,600 a year insurance premiums. Now, how in the name of God can he get a job, which means he has to have wheels when he does not have the \$2,600? This is one of the big problems. In my reading of newspapers recently, I am one of the ones who got clipped on this one. You people in the Senate do not know the problems of people having to pay insurance rates because the state pays them for you, except for my colleague who does not drive. I think almost everybody in this room does not only have one car that is a rented car, but they have a second car and maybe a third car. I know I pay full insurance on two family cars. My state-rented car is not used by my family, and I know what those insurance rates are because I pay them.

I am glad to hear the Governor has not dropped the Consumer Advocate, and I can assure the Governor's Office that I am not going to drop it. I do concur that should be by a separate bill. We need a Consumer Advocate over there, just as we have proven that with the Public Utility Commission the Consumer Advocate does a wonderful job.

Lastly, my neighbors whom I represent desire quality insurance at lower rates. I do not call this a reform bill. This is a rescue bill. This is going to rescue my neighbors from these confiscatory insurance rates. My people are concerned with

the money that comes out of their pockets. This is going to rescue them by 20 percent for those with good driving records.

Senator FATTAH. Mr. President, I want to make some comments generally associated, I think, with some comments that have already been made but may be perhaps slightly more to the point, and that is that throughout this debate in the Senate over these last six months on auto insurance reform, we, unfortunately, through the major newspaper in the state and one based in my hometown in Philadelphia, *The Inquirer*, have been subjected to our integrity being questioned. Our sensitivity is being questioned in terms of where we come down on the issue of being concerned about the high rate of auto insurance. Their coverage, not even on the editorial page, but on the news page, seems to have suggested that there is just one way to go. There is just one proposal of merit. I think in doing that, it really has cast aspersions upon the entire Senate. I think that has been unfair. It has been an unnecessary part of us grappling with the issues at hand, and I think as a matter of the record in the Senate, it is important that someone stand and take issue with it. Obviously, newspapers have a great deal of weight, but the reality is that the Senate of Pennsylvania has to be involved constitutionally in the formulation of laws. We have an opinion to share, and it is not our intention to be against anything, but to be involved in a process of arriving at a shared consensus of what is the best way to go. I noted a number of the stories they have covered, and I think they have not served their constituents well in terms of reflecting on the real merits of a number of the various proposals on the table in analyzing them appropriately and presenting the facts and not just trying to make these attacks on the Pennsylvania Senate in reference to what kind of cars we drive as if somehow the Governor's proposal is a good proposal. He drives a car paid for by the taxpayers too, and the Insurance Commissioner does too. For those of us in the Senate to be subjected to that kind of reporting, I am not sure it represents the kind of newspaper that *The Inquirer* used to be and could be and should be in this state, and I think that needed to be mentioned. But the bottom line tonight is different from June. In June I voted against the Senate Republican proposal and the Governor's proposal, but tonight I do not have to vote against anything. I am for something. I am for us taking an aggressive step forward, an innovative step forward, in terms of readdressing the problem here in the state, and we are looking forward now to having that opportunity. I just think we have arrived at where we would have arrived anyway, but I think our news agencies in this state have not necessarily communicated the kind of effort, the real work that has been put forward by Members of this Senate in trying to address this problem. I think that has been a disservice to the public of this state.

Senator O'PAKE. Mr. President, I desire to interrogate the gentleman from Delaware, Senator Loeper.

The PRESIDENT. Will the gentleman from Delaware, Senator Loeper, permit himself to be interrogated?

Senator LOEPER. I will, Mr. President.

Senator O'PAKE. Mr. President, we were just handed this rather lengthy amendment and the first question is—I want to be clear—is there anything in here that does provide for a Consumer Advocate before the Insurance Department to protect the premium paying public?

Senator LOEPER. Mr. President, like the Governor's plan that was offered before the Senate this evening, this proposal does not have, specifically, a Consumer Advocate in it. As my colleague from Delaware mentioned, that will be addressed in separate legislation.

Senator O'PAKE. Mr. President, is there anything in the amendment which would compel the data disclosure from insurance companies that is also the subject of a separate bill that does not seem to find its way out of committee in the Senate?

Senator LOEPER. Mr. President, no, there is not, and like the Governor's amendment that was offered previously this evening, the data disclosure provision is to be addressed or it would be our intention to address that in a separate bill, very similar to the Governor's proposal.

Senator O'PAKE. Mr. President, I understand that somewhere in here there is a provision that there shall be a 20 percent reduction. Is that a 20 percent reduction in the total premium paid by every premium payer in Pennsylvania, whether they be from Philadelphia, Media, Reading, Pittsburgh or Lebanon?

Senator LOEPER. Mr. President, that 20 percent reduction is for good drivers. It is an across-the-board reduction on the total policy premium that would go into effect June 1, 1990 for all Pennsylvania motorists.

Senator O'PAKE. Mr. President, did the gentleman just pick the 20 percent figure out of the air? What is the basis? Is there any sound actuarial data which supports the notion that we can force insurance companies to reduce premiums by 20 percent without doing anything else that really is a major cost reduction? One of our concerns, of course, is that insurance companies continue to write auto insurance in Pennsylvania, that we not drive them out of the state. I understand from at least one that this would be devastating to their ability to continue to write auto insurance in Pennsylvania. My question is, what is the basis for the 20 percent reduction? Why is it not 10 percent or 30 percent or 25 percent or 15 percent?

Senator LOEPER. Mr. President, the rollbacks of 10 percent and 20 percent, those numbers were achieved through actuarial data that had been supplied by the Insurance Commissioner, verified in various proposals throughout this year that have been before the Senate, and it was indicated that those numbers, with the savings that could be effected by the other reforms that are included in this omnibus amendment, would be able to permit those rollbacks to take effect and insurance companies still to operate in the Commonwealth.

Senator O'PAKE. Mr. President, I find that hard to believe and, therefore, I would ask respectfully, what is the breakdown? How much is saved by the antifraud provision? What is saved by reducing the coverage from \$10,000 to \$5,000? What percent is saved by the safe driving record, because I

find it difficult to believe that you would take the Insurance Department's figures and attempt to justify this amendment, which flies in the face of the Administration's amendment, which apparently we will not have the right to vote on here tonight?

Senator LOEPER. My understanding, Mr. President, is that based on the 20 percent, that 10 percent for the good driver deals with that vehicle operator who has had no violations or at-fault accidents for a period of five years. It is our view, Mr. President, that the track record seems to indicate that our motorists will drive safer due to the fact that they have a financial incentive for lower premiums that they pay in their policies. I think when we look at some of the other methods or measures that have been included in this amendment, such as financiers on automobiles cannot require more than a \$500 deductible for collision and comprehensive, the crackdown on the uninsured and the penalties on the uninsured that are now used for enforcement of constables and sheriffs to pick up registrations and licenses of uninsured motorists, it is our view, Mr. President, that one component will save approximately 10 percent to accommodate good drivers' 10 percent. We believe, also, there can be a 4 percent savings achieved through the reduction of the amount of padded claims and fraudulent activities, the stopping of frivolous lawsuits and also the peer review process that is called for as part of the amendment, and that coupled with an additional 6 percent savings that results from the 15 percent savings on the medical benefits as a result of the ceilings on health care payments and also the ripple effect of the medical controls on the lawsuits that are filed, the liability lawsuits.

Senator O'PAKE. Mr. President, first of all, to start from the beginning, what is the basis for the feeling you have and the wish you have that people will drive more safely because they want to save money on their premiums? What is the basis for your feeling that that will result in a 10 percent reduction in the premium? Is there any actuarial data provided by any credible service that supports that 10 percent, because maybe it will be 5 percent, maybe it will be 2 percent? I thought people drove safely because they did not want to get hit and they did not want to get involved in an accident.

Senator LOEPER. Mr. President, my understanding is that 10 percent and the incentive that 10 percent will provide to motorists will make them much more aware of the savings they can have on their insurance premiums and they will actually become better defensive drivers.

Senator O'PAKE. Mr. President, is there any sound data that you used as the justification for the number 10 percent reduction for safe driving?

Senator LOEPER. Mr. President, the data that was used is basically from the industry that indicates that there is a substantial segment of safe drivers and that this is an incentive that is included in order to keep that number at a substantial rate and, overall, try to reduce the amount of claims and frequency of claims that would be filed.

Senator O'PAKE. Mr. President, do you have a copy of that industry study available that we could share in your wisdom?

Senator LOEPER. Mr. President, I have volumes and volumes of material on this issue and to specifically pick up one study that indicates that, I do not, and I would suspect that the gentleman would understand that.

Senator O'PAKE. Mr. President, we have volumes and volumes as well, and I do not recall seeing anywhere that you can save 10 percent by giving this break to safe drivers. Let us go on to the rest of the 10 percent. What is the basis of your opinion that you can save 4 percent if you cut down on the padded claims and the frivolous lawsuits? Is there some specific data that somebody has prepared for you which pinpoints that 4 percent figure?

Senator LOEPER. Mr. President, that portion of the reduction is based essentially on a medical cap which reflects 6 percent of the total policy, 15 percent of the medical benefits saved is due to a cap.

Senator O'PAKE. Mr. President, but that 15 percent you are using to justify the other 6 percent reduction. I was asking about the 4 percent reduction.

Senator LOEPER. No, Mr. President, my understanding is that the 15 percent is to justify the 4 percent.

Mr. President, may we be at ease for a moment.

The PRESIDENT. The Senate will be at ease.

(The Senate was at ease.)

Senator LOEPER. Mr. President, I think when we talked originally of how we achieved the number of a 20 percent rollback, we talked about 10 percent for the good driver, and we just went through an interrogation to try and indicate how we arrived at that and what the components were to create that 10 percent for the good driver savings. For the other 10 percent across-the-board savings, that savings that would be available to every motorist, we are talking about two components, one of 4 percent and one of 6 percent. I believe the gentleman had questioned me on how did we achieve the 6 percent savings, and my response to that, Mr. President, is that 15 percent of the medical benefit is saved due to the cap and that the medical benefit is 90 percent of the first-party payments, so essentially the cap then saves 14 percent overall on first-party payments. That rollover effect, the cap, can be estimated to be 7 percent of the third-party liability. My understanding, then, is the medical cap results in approximately 10 percent savings on first-party medical benefits and third-party liability. The first-party benefits and third-party liability make up an average of 60 percent of the typical policyholder's policy. The other 40 percent that you would use to figure into that is based on comprehensive and collision insurance, so I guess the final answer to that would be that the basis of our calculation for that 6 percent would be the savings on the total policy, that would be the first-party benefits, the liability, the comprehensive and collision as a result of the medical cap would be a total of 6 percent.

Senator O'PAKE. Mr. President, how much of the reduction is due to the fact that you are requiring less coverage?

Senator LOEPER. None, Mr. President.

Senator O'PAKE. Mr. President, does the gentleman agree that there is going to be a savings if the car owner has to only

buy \$5,000 instead of the now mandated \$10,000? I mean, that makes sense.

Senator LOEPER. Yes, Mr. President. The amendment calls for a rollback of 20 percent for the good driver and 10 percent across the board for all other drivers. Then, in addition to that, Mr. President, there are a number of components that can be added together to create additional savings, and that is the part of choice to this plan which, only mandating a \$5,000 first-party benefit, we estimate that there is an additional savings over and above the original 20 percent of another 5.5 percent.

Senator O'PAKE. This sounds like pie in the sky to me, Mr. President. I still would like to see the basis for the numbers that have been thrown out here. I have had only a very brief opportunity to discuss these numbers with some insurance companies that are now writing substantial amounts of business in Pennsylvania, and they just do not add up. I have one other question. Is there anything in here that reduces the blood alcohol content for proving drunken driving?

Senator LOEPER. Mr. President, in the proposal before us there is a provision that deals with the commercial driver that brings the commercial driver to a .04 blood alcohol content level in order that we can reduce the number of fatalities on our highways.

Senator O'PAKE. Mr. President, does it reduce the level from .10 to .08 for the noncommercial driver, the regular automobile driver?

Senator LOEPER. No, it does not, Mr. President.

Senator LINCOLN. Mr. President, I desire to interrogate the gentleman from Delaware, Senator Loeper.

The PRESIDENT. Will the gentleman from Delaware, Senator Loeper, permit himself to be interrogated?

Senator LOEPER. I will, Mr. President.

Senator LINCOLN. Mr. President, the amendment before us, the amendment to the amendment, was not made available to the Members of the Democrat caucus until 6:45 p.m. this evening. Can the gentleman from Delaware County advise me as to the reason for that particular delay in us obtaining this amendment?

Senator LOEPER. Mr. President, my understanding is that a marked copy of a draft was delivered to the gentleman's caucus at approximately 3:00 p.m., or some time after that, this afternoon. The final draft of the document was in the Reference Bureau, and as soon as we received the final document from the Reference Bureau, it was also shared with the other caucus.

Senator LINCOLN. Mr. President, would the gentleman from Delaware accept my public statement that there were no drafts, marked or unmarked, preliminary, final, whatever, delivered to this caucus? I will speak for the gentleman from Lackawanna, Senator Mellow, who can speak for himself, and for the gentleman from Allegheny, Senator Scanlon, who has been intimately involved in this, and I will speak for myself in that there was never a copy of this amendment, drafted in any form, submitted to the Democrat caucus until

6:45 p.m. this evening. To this date, we have not received an analysis in any shape or form.

Senator LOEPER. Mr. President, I stand by my statement that it was my understanding the amendment was delivered to the office of the Minority Leader this afternoon some time after 3:00 p.m.

Senator LINCOLN. Mr. President, the Minority Leader will speak to that issue. I will say to you that is not a fact.

The second question that I would like to ask is, if it were available at any time prior to 6:45 p.m. this evening, did you, in fact, discuss this proposal in your caucus at any time today?

Senator LOEPER. Mr. President, I do not know the exact time at this point that we began a discussion of this proposal, but, yes, we did. I would assume it was after 5:00 p.m.

Senator LINCOLN. Mr. President, would the gentleman also advise those of us in the Senate as to the purpose and reason for offering this amendment to an amendment, which is rather unusual, rather than offering it as an amendment to Senate Bill No. 376 to rise and fall on its own?

Senator LOEPER. Mr. President, I can simply indicate to the gentleman that the Majority Leader of the House of Representatives, myself, the two Chairmen of the Committees on Banking and Insurance, both in the House and the Senate, have been working for a number of weeks to try to effect some sort of compromise to bring relief to the motorists of Pennsylvania. We have been able to finally come to what we believe is a responsible proposal, one that will reduce rates for all Pennsylvania motorists, one which addresses many of the issues we have debated time and time again on this floor in the last year. We believe that putting into place a conference committee on House Bill No. 121, which is scheduled to meet tomorrow morning, it would be my view that this compromise, as I have offered here on this floor as an amendment tonight, would also be considered by that committee tomorrow, and, hopefully, we can get a majority of Members, of not only this Senate, but also the House of Representatives, to effect a positive vote on a very responsible proposal to help the people of Pennsylvania.

Senator LINCOLN. Mr. President, I do not really know what question I asked after listening to that answer. It seemed to be very simple. I just said, Mr. President, why would this be offered as an amendment to an amendment, which is highly unusual, rather than be offered on its own merits, to Senate Bill No. 376? I would ask that question again as to why the amendment of the gentleman from Allegheny, Senator Scanlon, was not allowed to be offered and voted on and then the amendment of the gentleman from Delaware, Senator Loeper, could be offered and voted on?

Senator LOEPER. Mr. President, every time the gentleman asks me a question, he gives me an opportunity to respond. Let me try to put it in a little more concise terms to him this time. I believe that what we effectively have done here is put two proposals before the Senate of Pennsylvania to consider. There is a compromise proposal that affords an immediate rate reduction on June 1, 1990 of up to 20 percent for the con-

sumer of Pennsylvania—I think as Senator Bell termed it, a rescue mission. We have another proposal that provides for no rate reductions for the people of Pennsylvania, again before this Senate. It would be my view, Mr. President, that the Members of this Senate have the opportunity either to vote in the affirmative on the proposal that is before them that I offered that effects an immediate rate reduction for Pennsylvania motorists, or if they choose that the other plan may be better, they have the opportunity to vote against the compromise proposal and then have an opportunity to vote on the amendment offered by the gentleman from Allegheny, Senator Scanlon.

Senator LINCOLN. Mr. President, I will not pursue it any further because I am now convinced I am not going to get an answer. Mr. President, I would wonder if I heard the gentleman correctly that he, the Majority Leader in the Senate, Representative O'Donnell, the Majority Leader in the House and the Majority Chairmen of both committees responsible for this legislation in the House and Senate respectively, have been meeting on an ongoing basis for at least two weeks. Have I understood him correctly?

Senator LOEPER. Mr. President, eight weeks would be better.

Senator LINCOLN. Mr. President, they have been meeting for eight weeks, and yet today when we are asked to vote on this as an amendment to an amendment, it could not even have been in print by 5:00 o'clock this evening. Was it just that all at once everything went together in this compromise, or how did it come about?

Senator LOEPER. Mr. President, I think that once one reflects on what the components of the compromise bill are, there is nothing new and startling here that is presented before the Senate. Each one of the components of this compromise has been an issue that has been debated on this floor or issue that has been debated on the House floor, and I do not believe there is anything new and novel other than trying to get some consensus to put a package together to help Pennsylvania motorists.

Senator LINCOLN. Mr. President, earlier this evening the gentleman took part in a dialogue with a Member of the Senate from Philadelphia when the gentleman offered an amendment. There was indication from him that whatever that amendment was was included in his compromise. I was one of twenty-two people who voted for that amendment back in June, and I had some recollection that it was in itself almost as big as this Amendment No. A4196. I was wondering if you could point out to me where the very unique idea of the gentleman from Philadelphia, Senator Fattah, is incorporated in this particular amendment?

Senator LOEPER. Yes, Mr. President, I would refer the gentleman to Section 1799.9, beginning at line 10 on page 43, and particularly in light of his support of the plan in June, I would encourage his support also for the compromise proposal before us this evening.

Senator LINCOLN. Mr. President, I am now really confused. The amendment I have, No. A4196, does not have the twenty-eight pages.

Senator LOEPER. Mr. President, I understand I have referenced the act and not the amendment. On the amendment it would be on page 22, Section 1799.9, which begins ten lines from the bottom of the page.

Senator LINCOLN. Mr. President, would the gentleman mind reading in its entirety that particular part that has been referred to as the Fattah plan?

Senator LOEPER. Mr. President, it goes for three pages. If the gentleman would care for me to read it out loud to him, I think he would be able to simply look through the next three pages and, hopefully, satisfy himself.

Senator LINCOLN. Mr. President, in other words, what the gentleman is saying to me is that he has outlined a study of what Senator Fattah has proposed?

Senator LOEPER. That is correct, Mr. President. As the gentleman is probably aware, there is also another proposal that has been offered in the House of Representatives dealing with the same type of issue, and what the provision in the amendment provides for is a complete study of that issue by the Insurance Commissioner to determine the feasibility for the implementation of same.

Senator LINCOLN. Mr. President, could that not have been done without having it incorporated in this amendment for whatever length of pages and words that are put into here, and is it going to have any effect immediately on anybody driving or not driving in Philadelphia because they cannot obtain automobile insurance, either because of availability or cost?

Senator LOEPER. Mr. President, it is our view that it very definitely can have some significant impact on the City of Philadelphia. I think, as was pointed out in some of the interrogation on the floor here this evening, there was a request to consider moving the date up as far as the study and when it was to take place. That is something we would certainly consider doing. I think it is important to note, also, Mr. President, that the drivers in the City of Philadelphia would immediately have a 20 percent rate rollback for good drivers and 10 percent for all other drivers while the implementation of this plan is under consideration.

Senator LINCOLN. Mr. President, the 20 percent rollback, whether it would be fact or fiction, has nothing to do with the Fattah amendment.

Senator LOEPER. Mr. President, I think if the gentleman would understand that the compromise proposal affects all drivers in the Commonwealth of Pennsylvania, even those in cities of the first class. What we are doing here is giving an alternative for the Insurance Commissioner to look at, to see if there is a better plan, such as the Fattah plan, that could bring down rates even farther than what the proposal contains.

Senator LINCOLN. Mr. President, I see no sense in furthering this debate. Senator Loeper is becoming very adept at defending something that has very little defense to it. I think the fact that the manner in which this was handled today, in that we were not given even an opportunity to see what this so-called compromise is, I think Senator O'Pake's question-

ing of Senator Loeper was probably as poignant as anything I have seen in my time in the House and Senate, in that Senator Loeper, to his credit, did not have the answers to something that is probably the most vital and important issue facing the people of this Commonwealth. As far as the amendment to an amendment, the reason for that is because the Majority Party in this Senate does not want its Members and our Members to have to face a vote on the Governor's plan, and by voting for Senator Loeper's amendment, you are basically saying that you want to accept anything other than to have to vote on Governor Casey's plan for automobile insurance. There is no fact behind the reductions. It is just absolutely ludicrous that there would not even be an analysis prepared for something of this importance. It is a little bit hard for me to understand why we could not even have waited until tomorrow to do this. You know, it has been eight weeks of negotiations. It does not make any sense to throw something on the table that even the Republican Senate Members have not had the opportunity to thoroughly go over. I also believe that the part of this amendment that covers the Fattah plan is insulting to Senator Fattah. I believed back in June when he offered this that it was a very unique way for the City of Philadelphia to handle a problem that is primarily in Philadelphia, and for someone to put into an amendment that we are going to study it and have the gentleman from Philadelphia, Senator Salvatore, and the gentleman from Philadelphia, Senator Rocks, who voted against this back in the summer, stand up and make all these wonderful accolades about this amendment, why do you not let him run it? Let him run the amendment and let us see how many people vote for it. I do not believe that what you have before you this evening is going to fail, I think it is going to pass. I believe that in a year from now there will be no difference and no change in the very serious problem of automobile insurance facing the people of Pennsylvania and the worst part of it is where the problem is the most acute, in the City of Philadelphia, it will not be just the same, it will be a lot worse by this time next year.

Senator SALVATORE. Mr. President, I am not an orator and I will not be long winded. All I know is that this rescue mission and this rescue plan is going to rescue the hostages, and that is the people in my district who have been suffering and paying the high premiums. Another word we always use is relief, that is used in the commercial for Roloids. This time we use relief with automobile insurance and this amendment. That is what we need, relief from all the money that is coming out of my constituents' pockets every day that we prolong and do not pass some meaningful legislation such as we are passing this evening.

Senator JONES. Mr. President, I, indeed, am happy to have this opportunity to stand here and speak out on this charade. I am very concerned and very interested in having a reliable insurance policy for my constituents because, truly, they have suffered long in Philadelphia. I just have to stand here and speak against the Scanlon amendment, because it does not answer the problem—

The PRESIDENT. The Chair would remind the gentle lady that we are dealing with the amendment to the amendment, Senator Loeper's proposal and compromise.

Senator JONES. Mr. President, do you mean I cannot speak on both of them?

The PRESIDENT. The Chair would suggest that it is in order to deal with the amendment to the amendment at this time. The Chair did not wish to dissuade the gentle lady from continuing her remarks. I simply wanted to point out that what is appropriate at this point is the discussion about the amendment to the amendment.

Senator JONES. Mr. President, excuse me, but I thought first we had the Scanlon amendment and then the Republicans and Senator Loeper introduced his amendment. I have heard other people speak against one or the other, why can't I? I do not understand the Rules.

The PRESIDENT. The gentle lady is free to proceed with her discussion. What we are dealing with is the Loeper amendment to the Scanlon amendment. That is all the Chair is pointing out.

POINT OF ORDER

Senator LOEPER. Mr. President, I rise to a point of order.

The PRESIDENT. The gentleman from Delaware, Senator Loeper, will state it.

Senator LOEPER. Mr. President, it would be my understanding that Senator Scanlon had the opportunity to offer his amendment and fully explain it. I offered my amendment and had the opportunity to present it to the Members. In some of the interrogations that have taken place, there have been both sides that have been heard, and I was wondering if you could indicate to me what would prohibit that from continuing?

The PRESIDENT. The Chair has granted wide latitude in discussion of all the issues thus far, and there would be nothing that would prohibit the gentle lady. I was simply pointing out that we are dealing with the amendment to the Scanlon amendment.

Senator JONES. Mr. President, thank you very much. I thought maybe I was on a list here. I would just like to say I do not simply support a two-tiered system which is what the Scanlon amendment does offer. Even though we just received Senator Loeper's amendment, I did get a chance to scan through it a little, and listening to the debate here, as far as I am concerned and speaking strictly—I am concerned about my constituents in Philadelphia—I would have to say I would like to ask the Senate to support the Loeper amendment. It has more to it. The other thing I would like to say is that I have not liked the allegations that have been thrown at a lot of the Members because we have taken this position. Those of you who know me know that I am just straightforward. When I do not like something, I say it, and it is always pertaining to the people I represent. I do not like the fact that I have been accused of being with the trial lawyers and whatever this is all about. I think it is very unfair to the Members. My main concern is to support legislation that is going to help people lower their insurance rates. At this point, from what I am hearing, I would rise to support the Loeper amendment.

Senator FISHER. Mr. President, I, too, rise in support of the Loeper amendment. I think we have heard a lot here this evening as to the contents of both the Loeper amendment and the Scanlon amendment. I think the gentleman from Delaware, Senator Loeper, adequately characterized it in response to the question raised by the gentleman from Fayette, Senator Lincoln, as to really what was before us in that we really have an option of the two plans before us as we vote here on this amendment.

Mr. President, as I have had an opportunity to review the two plans before us, I think that the plan offered by Senator Loeper, a plan which has been worked on by him, the Chairman of the Committee on Banking and Insurance, and the Majority Leader of the House is far preferable to the plan that has been submitted by my colleague from Allegheny, Senator Scanlon. The Loeper plan contains many provisions which are not covered in the original amendment. It contains many provisions which I believe will result in rate relief for all of the drivers across Pennsylvania. It is important that we consider all of the drivers across Pennsylvania, not just the drivers in southeastern Pennsylvania. I look at the insurance crisis today a little bit as we looked at the trash crisis four or five years ago when the people in my district were telling me there was no problem with the trash crisis because their rates were low, but the rates were high in the southeastern part of the state. That is the way it is in insurance today. If those of us from the west, who fail to heed the fact that there is a problem in insurance in the east, do not act responsibly, I can see that our constituents in western Pennsylvania and central Pennsylvania quite conceivably could be faced with spiraling insurance rates in the near future. I think that the Loeper plan addresses the major issues. It provides the mechanism for the rate reduction, not only for all drivers, but also a 20 percent rate reduction for good drivers. In addition, it incorporates a proposal which I have introduced in previous Sessions called "55 Alive," which will provide an additional 5 percent rate reduction for drivers over 55 years of age who have taken a driver improvement course and continue to take those driver improvement courses. I think that is important in recognizing that those are the people who perhaps have the toughest time, not only in my area of the state but all across the Commonwealth, in paying their insurance bills.

There is one provision of the Scanlon amendment, however, that is not contained in the Loeper amendment. I think that is a good exclusion. Just as I rose in the course of the debate back in June when we discussed auto insurance reform to discuss the limited tort concept, I rise again tonight to say that although I am not raising a constitutional point of order, I believe that the limited tort option contains many pitfalls, including a possible constitutional problem. The very people that the amendment offered by Senator Scanlon and offered and supported by the Governor attempts to help are the very people who are going to be hurt by the limited tort alternative. The major cost savings in that part of the amendment will be for those who choose to waive certain rights to sue a negligent driver for noneconomic loss. We are not

talking for wage loss. We are not talking for medical bills. We are talking for that category of losses that comes somewhere in between and below that definition of serious injury. There are a lot of things that can happen to you when you are injured in a car that do not come up to the level of serious injury, whether it be your part-time pursuits, whether it be your vocations, whether it be your hobbies, whether it be your desire to work around your house, to work around your yard, to go out to play golf, to go bowling, to play tennis, all of those things that generally come within that category of non-economic loss that some court is going to rule is not a serious injury. That is one of the major pitfalls of that amendment. Each and every judge across this Commonwealth may have a different interpretation of what the term "serious injury" means. We define it. We try to define it, but I say that you probably cannot define it well enough, no matter how long you try to cover each and every case that is going to be brought before the courts. This proposal is far different from the proposal that was approved constitutionally by the United States Supreme Court in the mid 70s in the Sheppard v. Singer Case. In that case they ruled that the 1974 Pennsylvania no-fault law was constitutional because there was a countervailing improvement and benefit added to the act in the unlimited medical benefits. The gentleman from Allegheny, Senator Scanlon, does not propose to add unlimited medical benefits in this bill but, rather, he proposes to take away the right to sue from many innocent people across this Commonwealth, not just a person who opts for this limited tort alternative, but anyone who is designated as an insured under that policy, whether it be his wife, whether it be a child, whether it be a person living in the household. They, too, will be denied that limited right to sue. I think that is wrong if not, in fact, unconstitutional. In addition, that proposal calls for the fact that if you do not respond to the offering of the limited tort alternative, if you do not respond to it on the second occasion, then the law is going to deem the fact that you chose the limited tort alternative. For that reason I think that omission from this amendment offered by the gentleman from Delaware, Senator Loeper, is a good one. I think the Loeper proposal is far preferable, and I would urge support for the Loeper proposal.

Senator MELLOW. Mr. President, there has been a lot said on the floor for the past hour to hour and a half about the Scanlon amendment. Yet, for some reason, the Majority Party in the Senate wants to deny the Members of this Body the opportunity of a vote on the Scanlon amendment, for what reasons I have a very difficult time in trying to understand. I think it is extremely important that the record does very clearly indicate that the first time the Senate Democrat Floor Leader's office received a copy of the proposal we are now considering as an amendment to Senator Scanlon's amendment was sometime after the hour of 6:30 this evening, and we, in fact, did not receive a proposal this afternoon, as was indicated by a previous speaker. In fact, Mr. President, the only summary I have seen of the proposal was a summary that was shown to me by the news media prior to us starting

Session here this evening. I also think the record should be clear in a statement that was made earlier by the gentleman from Delaware, Senator Bell, when he talked upon the conclusion of the speech that was given by the gentleman from Bucks, Senator Lewis. Senator Bell paraphrased that he was happy that the fraud section of the proposal that has been offered by the gentleman from Delaware, Senator Loeper, made a felony out of fraud that was committed in regard to insurance. But the part he did not mention was that if you are a doctor or a lawyer, you are not guilty of a felony, you are, in fact, guilty of a misdemeanor. If you get an individual who for some reason or another has an opportunity to fill out an insurance application and is not a lawyer or a doctor and they fill out that application inaccurately, they can be guilty of committing a felony under this proposal, where if you are a doctor or a lawyer, the only thing you can be convicted of is a misdemeanor, which to me, Mr. President, is of some great consequence. Also, I heard it stated earlier that Members in this Body think it is important that they have the opportunity of being able to vote on a package, a piece of legislation, that would go ahead and reduce insurance premiums. I think one speaker from Philadelphia talked about the fact that his automobile insurance exceeded the cost of \$6,000. I submit to that gentleman if he went ahead and he would allow us to consider the Scanlon proposal, which is basically the Governor's insurance reform package, that on that same \$6,000 premium he would receive a mandated reduction in his premium of \$1,620. Mr. President, what do we really have here? We have a proposal that was submitted to the Minority Members of the Senate some one hour prior to us taking the floor. If I can quote the Majority Leader, his quote was that "We are dealing here with a comprehensive automobile reform package," and I could not agree with him more. We are dealing with a comprehensive automobile reform package, so comprehensive, Mr. President, that it took the Majority Leader of the Senate and the Majority Leader of the House some eight weeks in their discussion and in their deliberation to come up with their compromise. This, in fact, is not a compromise that would truly reflect the viewpoints of the 253 Members of the General Assembly, nor is it a compromise that has been advanced by the Administration, nor is it a compromise that has been worked out with the Insurance Department. But it is, in fact, the compromise of the Majority Party of the House and the Majority Party of the Senate. I can respect that, Mr. President, if it is stated that it is their compromise proposal. Mr. President, we on this side of the aisle had the opportunity of caucusing this afternoon with regard to insurance reform, but we did not have the opportunity of caucusing this afternoon with this proposal in hand so that we could intelligently discuss the differences between the Loeper proposal and the Casey-Scanlon proposal. Mr. President, the request I would like to make, or the question I would like to ask—and I would not put it in a form of a motion because I know it would not pass—is why is the Majority Party of the Senate afraid to allow the Scanlon amendment, which is Governor Casey's insurance reform package, the opportunity of

being able to rise or fall in this Body on its own merit? If that proposal, Mr. President, would, in fact, not pass, then we could consider the proposal that has been advanced by Senator Loeper. I was under the assumption that when we came here today we in this Body would have the opportunity of discussing a proposal that, in fact, encompassed the proposals that were being advanced by the Administration. What we are having here today, Mr. President, is we are dealing with an illusion. We do not have the opportunity of dealing with a proposal that has been well thought out, that has been worked upon and that has been advanced to the Members of the Senate in the proper fashion, and that is the Governor's reform package. Instead, what we are asked to do, Mr. President, is vote on a package that the Minority Members of the Senate have, in effect, not been able to see until they reached the floor of this Senate this evening. There is no guarantee, Mr. President, let us make no mistake about it, in this package that there will be any kind of a reduction in premium, no mandated reduction in premium, no freeze on future premiums. What there is is a mandated reduction of benefits, and by having a mandated reduction in benefits, that is bringing about a reduction in premiums because insurance company exposure will be that much greater.

Mr. President, I would like to say that we do have a compromise. I would like to say that this caucus had the opportunity of some meaningful input into that proposal, into that compromise, whether you support the proposal advanced by the Governor and by Senator Scanlon, or whether you support the proposal advanced by Senator Loeper and other Members of the General Assembly and the Majority Leader of the House of Representatives, but we have not had that opportunity, Mr. President, because we have not had the opportunity of being able to discuss in open debate and being able to take a head count on people who are in support of the Governor's program, as opposed to support of Senator Loeper's program. At this point in time I would have to ask for a negative vote on Senator Loeper's amendment.

Senator LOEPER. Mr. President, I am compelled to respond to the Minority Leader that I think he has made one serious error in fact in his remarks, and that is that the proposal before him in the amendment does, in fact, mandate a rate reduction and that rate reduction is not on the basis of eliminating any components of the insurance package. That 10 percent rate rollback and 20 percent for good drivers is mandated in the amendment beginning on page 26, and I would suggest that maybe in the Minority Leader's haste he did not get a chance to read that carefully. I might also indicate, in response to the gentleman's remarks, that the reason for some of the delay in getting our final amendment to him was the fact that we did not receive the Governor's amendments until approximately 3:00 o'clock this afternoon in order to have the amendment that we offered here drawn to that amendment in the Reference Bureau. That may, Mr. President, account for some of the delay.

Senator MELLOW. Mr. President, once again in a brief response, the gentleman is correct that we did not have the

proper opportunity of going through the amendment he has proposed. However, Mr. President, I have been able to read the part of the amendment that does talk about a 20 percent reduction in premium if you are a good or a safe driver. I would only like to compare that, Mr. President, to the proposal that was advanced by Senator Scanlon, which we are not going to have the opportunity to vote on today, that in the gentleman's own county, Delaware County, the mandated rollback in the premium under the Casey-Scanlon proposal would be a mandated 24 percent. That would be mandated, Mr. President, to every motorist in that particular county, where the only people who would receive the rollback in the premium under the current proposal advanced by Senator Loeper, would be those who would receive the 20 percent, those who have a good or a safe driving record.

Senator DAWIDA. Mr. President, unfortunately, I, being somewhat low in seniority, cannot comment on who did what to whom and how late. However, I would like to make a statement, Mr. President, that, procedurally—and I will say this every time we do this—amendments to amendments are a very bad idea. Mr. President, I hope you understand that I will say this when we are in the Majority to Majority Leader Mellow when he tries to do it, also. Substance does follow procedure. When you mess with the procedure, bad things occur afterwards. I think that is what amendments to amendments do.

But, to the issue of auto insurance, I have been involved in this issue for eleven years. I remember when a bright, articulate Republican lawmaker—and that was during the one term I served in the House where the Republicans were in the Majority—by the name of Bill Yohn was the chairman of the committee and really made a great effort to explore the problems of auto insurance even as long ago as eleven years. He explored the issue of threshold and we dealt with fraud and frivolous suits. We dealt with all of the different problems which cause auto insurance to be high. There were many things we could agree on. However, there was one unfortunate problem, and that is after we were done with the fraud, after we were done with eliminating the frivolous suits, after we were done with all those nice things, there was still not much in the way of reductions. That is not to say we should not do them, and that is not to say that there are not elements of the Majority Leader's proposal in the amendment to the amendment which are not good. But, they do not really, in the end, come down to the hard question of how we eliminate cost and, therefore, price. We do have a two-tiered system right now, particularly among the poor constituents whom I represent. I represent both the wealthiest and the poorest people in Allegheny County. My two-tiered system is simple. I have people who have insurance and I have many who do not and cannot afford it. There are many problems with this amendment to the amendment which do not get to the heart of what we need to do. One of the problems, and I think it was inadvertent but it is still an issue, is that you wiped out the blood alcohol federal mandate. But we can replace that at another time. You did put in the commercial .04, but you forgot the .08 for the average driver. We did not deal with data disclo-

sure, and I will take the Majority Leader at his word because he is a man whose word is generally his bond, but we have had three opportunities to vote on data disclosure in the last four years. Three times the House passed and brought to you unanimous votes on data disclosure which were never considered by this Senate. We have had the opportunity twice in my brief tenure here in the Senate.

I hope that we get a chance to deal with data disclosure because it is one of the four component parts that have to be dealt with in order to get long term and lasting car insurance reform. We come down hard on these issues. We have to deal with what the medical profession wants, what the legal profession wants, what the insurance companies want, what the hospitals want, and it is not an easy decision. What I am telling all of you is that there is a lot of blue smoke and mirrors in this proposal tonight. If we do not lower cost, we cannot lower price. All else is very ephemeral. It is either in these two cases, whether we deal with the tort system or lower mandates. The problem with lowering mandates is that we are just transferring the costs to another field, health care, where we have a growing, if not already overburdened populace who are not able to afford their insurance. One of the reasons the labor groups are against transferring the car insurance medical side is they are having trouble when they negotiate their contracts because of the cost of health care, and it is growing. But I am not even thinking about the guy who has a labor contract. I am thinking about the many, many people I represent who do not have a labor contract who are paying for their own Blue Cross and Blue Shield, and they are now going to have to deal with the transfer that this will cause. In the end we have to make some tough decisions, Mr. President. What I am afraid of is that we did not do it here tonight. We are not going to do it here tonight. While this is not a totally lacking in merit proposal, it is not as good as we should have done. For that I am finally upset. I think we should vote "no" and do it the right way. I have been saying the same thing for eleven years, and I hope eventually the populace of Pennsylvania will agree that we have to do it all in order to lower cost in car insurance.

Senator FUMO. Mr. President, I rise to support the Loeper-O'Donnell proposal which is before us today. There are a few things I have to say.

First of all, Mr. President, I have heard the hue and cry from people in my caucus who keep saying poor Governor Casey never had a chance to have a vote on his amendment. I recall that we did vote on Governor Casey's proposal in this Chamber, and we voted overwhelmingly to reject it. The proposal that was sent back to us tonight has not changed. Conditions have not changed. Maybe the only thing that has changed is that the Governor has decided this might be a neat issue to get involved in again. Maybe he got some pressure from some editorial writers, so he had a news conference and yelled and screamed at the Senate that we are irresponsible, and now the editorial writers write that this is a battle between good and evil, the good of Governor Casey and some plan he dreamed up, versus the evil with regard to the gentleman from

Delaware, Senator Loeper, and Representative O'Donnell and some plan they dreamed up. We are not going to solve the insurance crisis problem with Governor Casey's plan, as put forth by the gentleman from Allegheny, Senator Scanlon. We are not going to solve it with Senator Loeper's plan, either. What we try to do is move forward a little bit, an inch at a time. I want to say something for the record so that maybe some day, generations from now, someone might read it. I do not say it for the reporters tonight and the editorial boards because at least the editorial boards have already made up their minds, but I say it for posterity. Mr. President, we have in Pennsylvania a huge crisis. It was not created by anybody but the people who participated in it, and it is tough to tell the people of Philadelphia that they have to learn that every time their bumper gets tapped, they did not win the Pennsylvania lottery. It is very tough to tell people in Pennsylvania and this nation that there is no such thing as a free lunch. When you push the system as far as people have pushed this system in Philadelphia and who are now starting to push it around the Commonwealth, it is going to come back and push you back. Insurance rates, litigation, accident claims, doctors and lawyers are all there because there are plaintiffs. Who are the plaintiffs? The plaintiffs, regrettably, are the citizens of the Commonwealth of Pennsylvania. No politician and no editorial writer wants to give people that bit of bad news because it might be offensive, but it is the God's honest truth. Without plaintiffs, there are not defendants and there is not litigation, and you do not have the kind of problem that you have today. Insurance is supposed to be a safety net, not a ticket to ride to prosperity, but somehow our own people have been sucked into this process because they have been told there is a free lunch somewhere.

Mr. President, after the Governor castigated the electorate he told them to call their Senators and get them to vote for his plan because it is the best. I love the kind of debate we have at these news conferences where he says it is the best and everybody runs out and says it is the best. I got phone calls in my office, the same as everyone else did. Rather than just record the call, we talked to the people who did call and asked, what did they like about Governor Casey's plan? What specific provision did they think was that great that Senator Fumo should vote for this and take away their right to sue? I will tell you to a person the answer was the Governor's plan reduces rates. When told that there might be other ways to reduce rates, they said, oh, that is okay, just reduce my rates. When told that they might have to give up their right to sue, that was not taken with such enthusiasm. Mr. President, I spoke with the Governor on Friday. He called me—a rarity in my office—so I jumped on the phone immediately. During my discussion with him, I politely told him that he runs for election next year and it looks very good on his resume or maybe a few Carvel fantastic commercials. If this bill were to pass, he would look like the hero who solved the problem, except I have been around long enough and many of us have been around long enough to know that by the time the program gets in place and by the time the poor people get to litigate and

by the time the courts define what verbal threshold is, and everything else, lo and behold, the election is over and the Governor is reelected. Then what happens? People who run in 1992, like me, have to live with the aftermath while the Governor retires, at least he does not run again. He is home safe and free, and somebody can point the finger at somebody else. Mr. President, we all lived through the Denenberg years, when Herb Denenberg sold us on no-fault. It was the wave of the future. It was the way to stop these rising prices. It was the answer. I was not a Senator then, but I remember the dispute in the Democrat Party that here was a Democratic Insurance Commissioner sending pickets down to the Democratic City Committee, yelling and screaming that we were not doing what he thought was best, and that was good and evil, again. At that point in time people caved in and went with the so-called good issue. Well, that did not solve any problem for us. In fact, that taught everybody a new way to get around the system. Today I saw Herb Denenberg out in the hallway, urging me to vote for Governor Casey's plan because it was the best plan again. Mr. President, it gets back to a very basic, fundamental issue. We cannot, no matter how hard we try, legislate morality. We can define trying to find what good moral conduct should be, but I submit to you that as long as there are people who believe there is a free lunch, as long as there are people who think whenever they get their bumpers tapped they have won the lottery ticket, and as long as there are plaintiffs, there is going to be a way to get around anything you put down their throats tonight. Given that reality, why should we sit here and take away the constitutional right of people to sue? Why should we do that? There is no compelling reason. Therefore, Mr. President, Senator Loeper's plan has been worked out with a Democrat and, regrettably, my leadership here thinks Mr. O'Donnell is, I do not know, not a Democrat, not one of ours, something else, I do not know. He is a Democrat, and he is a Philadelphia Democrat, and a Philadelphia Democrat who I respect and many other people respect. He is not the tool or the pawn of the trial lawyers or anybody else. In fact, those reporters who know him like I do know he is very candid and very honest. He helped negotiate what seems to be the most reasonable compromise that we can get through this General Assembly and not stick it to people and not con people and not play with smoke and mirrors. Will it work? I do not know. But given the choices I have, I would much prefer to go with the compromise plan reached by legislative leadership than the plan dictated to me on high by my Governor with the white hat and the white horse who tells me what good is. If it means I am evil because I disagree with my Governor, be he of my party or not, I want to remind the editorial writers that I have a role to play in this process, and so does everyone else in the General Assembly. The day the editorial writers want to do away with the Legislature and change the Constitution so we just have a Governor who tells us what is right and wrong, then let them step up to the plate and take the editorial position. But do not play games. This is not going to solve it, and neither is Governor Casey. People are going to have to solve this and people are going to have to get

educated. Trying to kid them by saying, I have the solution and I have the free lunch for you, is not being honest with them or anybody else.

Mr. President, I, therefore, rise and ask for support for Senator Loeper and Representative O'Donnell's plan, the Democrat-Republican, House-Senate, bi-partisan plan which has usually received great praise from everyone when the parties and the factions can get together and solve a problem. Yes, I rise to support that in the face of a Democratic Governor who tells me his is better simply because he says it is better. I would rather exercise my mental capacities and my intelligence and be realistic. Maybe someday someone will read this Journal and maybe they will have solved the crisis or maybe people will have solved the crisis decades and generations from now.

Mr. President, we should stop kidding people and try to do something that is right, but we all have an obligation to educate those constituents and not pander to the free lunch concept.

Senator HOLL. Mr. President, when the gentleman from Allegheny, Senator Dawida, spoke, he reminded me when he mentioned eleven years of experience on this insurance problem and problems of my experience which go back sixteen years when I served on the conference committee on the original Denenberg shop proposal, which was heralded to be a great success and which in nine years caused an increase of 875 percent in the cost of automobile insurance. That was from 1974 until 1983, and then, of course, the problems were so serious in 1983 that we repealed no-fault, as you recall. Then we tried to write something that was constructive and we, too, joined with the Democrats in the House at that time. We did come up with an excellent plan, I thought, except that we had a Governor by the name of Thornburgh who insisted on the CAT Fund, and he insisted on charging for wage loss and charging for funeral benefits even though we did not need them and had other insurance. I think it is high time that we, as a Legislature, stand here and decide as a Legislature should, and not let the Governor dictate to us or those editorial writers or a bunch of other people who have very special interests but will never own up to it.

Senator LINCOLN. Mr. President, the gentleman from Philadelphia, Senator Fumo, made reference to something that prompted me to come back to the microphone and speak. I want to make it very clear that at no time in any remarks that I made or the gentleman from Lackawanna, Senator Mellow made, was there any inference that Representative O'Donnell was not a good Democrat or a good Representative or a good Majority Leader or anything. There was absolutely no reference made whatsoever to his involvement in this. In fact, if anything, rather than Representative O'Donnell being criticized by Senator Mellow and me, I think it is apparent that he has not communicated with the Democrat leadership here in the Senate by virtue of the questions that you are hearing asked by Senator O'Pake, myself and Senator Mellow. I love Vince Fumo off the floor like a brother, but I think tonight I heard him make a remark that I think even he a couple weeks

from now will read the Journal and laugh because he wants people to read sometime in the future the statements that he has made on the floor, but he sounded like Senator Bill Duffield, my predecessor. I am not sure what position he has. I am not sure when he started out and he finished how he got to be a supporter of the amendment. He did not speak to the merits one bit. He did not say anything other than this plan and the Casey plan, neither one can solve the problem. I would conclude from listening to his remarks that he was going to vote "no" on everything that came down the pike. I would hope that, seeing him rise to the microphone, he would clarify those statements somewhat for posterity so that whenever people read this, they will understand why he was supporting an amendment that really is very difficult to support.

Senator FUMO. Mr. President, I will respond to the remarks of the gentleman from Fayette, Senator Lincoln. I just wish he would have paid closer attention to my remarks.

Mr. President, what I said was that neither one of these proposals is going to cure the problems that we face and that those problems are ultimately only going to be cured by the people we represent recognizing what they are doing to themselves. But given the choice of the two proposals before us, I clearly said that I would much prefer not to give up the right to sue, which I view as a very basic constitutional right in this country. I am not sure who saves what percentage where. I listened to the dissertation back and forth. In fact, my comment was if this is the way we did the budget, we would be bankrupt. But that debate only ensued over the provisions in the Loeper-O'Donnell amendments. Similar debate could have easily ensued over the rate reductions claimed by the Governor. I have listened to that same argument forever. In fact, I distinctly remember during the Denenberg years that people were going to get a 10 percent reduction. I remember that commitment being made. But I also remember that every time it was written into law, somebody wanted to yank it out. I remember even the debate in June when Representative Kosinski put in a mandatory rate rollback and everybody went crazy. You cannot do that. Well, this one does it, and if it is going to be reduced, let us say it is going to be reduced. I think, as I said before, this is all a big problem that we are only going to solve ourselves. We are not going to legislate this problem away. I think there is just as much valid claim to the rate reductions that the gentleman from Delaware, Senator Loeper, puts forth, as there are to the ones the Governor talks about in his news conferences. In fact, I happen to honestly believe the rate reductions in the Loeper-O'Donnell plan are going to have a much longer period of implementation than I would ever believe if I am going to bind to some kind of verbal threshold the numbers and concepts of which are going to be set by our illustrious Pennsylvania Supreme Court. Even the Governor and the proponents of the Casey plan are not in good faith and good conscience going to tell me that our Supreme Court is going to solve this problem for us. I love the guys on that court, most of them, but let us be realistic. We did not solve it here to pass the buck to them. To tell them that they are going to solve it in some sort of litiga-

tion fashion is really kidding ourselves, but it does get us past the 1990 gubernatorial election. I guess if I were a true, loyal Democrat, willing to do anything I could for my party and its standard bearer, then I would not care about the people and I would sit here and play smoke and mirrors with them, too, and say, do not worry about it. The court is going to take care of this. This is going to take care of that. We are going to guarantee these rate reductions until after my election. Guess what? They will stay. Sure. I am not buying that one and neither are the real proponents of this. The answer is some sort of long-term solution that is not reliant upon some nebulous concept which is going to be determined by the Supreme Court. Also, I happen to value my right to sue, and I am not about to give it up for this cockamamie proposal that the Governor sent back to me. I thought we already debated this in June. The Governor had his chance. In fact, most of the writers and reporters I see today are saying can the Governor get the votes? Did he get enough? Did he twist enough arms? Did he do this and did he do that? I do not hear anybody talking about the merits of either plan. It is regrettable that the Governor bought into that stuff, and some of the tactics the Governor has used in the last two days are regrettable with regard to some of the Members. He did not use them on me, he knows better, but with some of the other people. We talk about keeping lists on who is naughty and who is nice. That stuff does not cut any ice with me. We have to recognize we should be here tonight trying to solve a problem, not helping a Governor get elected, either Democrat or Republican, and that should be the issue, and, regrettably, it is not. I hope I have answered the Minority Whip's questions. I have spoken twice and he has spoken twice. If he is going to get up to speak three times, I will, of course, ask, again, to speak three times.

Senator LEWIS. Mr. President, I want to briefly address one issue which has been talked about since the opening comments I made during this debate, and that is the Fattah amendment. You may recall that in my remarks I observed it is my opinion that the biggest problem with the civil litigation crisis arises because of the volume of lawsuits in the City of Philadelphia. I said that I believed the foundation block upon which that abuse is constructed is the existence of the mandatory medical and wage loss coverage. I believe that, and I believe in order to really strike at the heart of that abuse we need to eliminate those first-party benefits. I also want to make it clear that I think the approach being recommended by the gentleman from Philadelphia, Senator Fattah, will take a significant step, moving in the same and constructive direction. I wanted to make those comments in particular for the benefit of the gentleman from Delaware, Senator Loeper, by way of encouraging him to continue with the efforts that will follow after tonight's debate, to find ways to build upon and strengthen the language that is currently contained in the amendment. I think the proposal by Senator Fattah is unique. I think it is a bold and dynamic approach to a problem that defies simplistic solutions. I think if we couple that together with the elimination of the mandatory medical and wage loss

provisions about which I earlier spoke, we are going to really take the most effective and dramatic steps to try and provide long-term solutions. I want to encourage Senator Loeper to continue to work with Senator Fattah. I want him to know that as a suburban Senator who views the litigation abuse as having its fundamental origins in the County of Philadelphia, that I further believe this unique approach by a Member of the delegation from the City of Philadelphia is really a constructive and supportable recommendation that we need to build upon.

And the question recurring,

Will the Senate agree to the amendment to the amendment?

The yeas and nays were required by Senator LOEPER and were as follows, viz:

YEAS—31

Andrezeski	Fumo	Lewis	Salvatore
Armstrong	Greenleaf	Loeper	Shaffer
Baker	Helfrick	Madigan	Shumaker
Belan	Holl	Pecora	Tilghman
Bell	Hopper	Punt	Wenger
Brightbill	Jones	Reibman	Williams
Fattah	Jubelirer	Rhoades	Wilt
Fisher	Lemmond	Rocks	

NAYS—17

Bodack	Lynch	Peterson	Scanlon
Dawida	Mellow	Porterfield	Stapleton
Greenwood	Musto	Regoli	Stewart
Hess	O'Pake	Ross	Stout
Lincoln			

A majority of the Senators having voted "aye," the question was determined in the affirmative.

On the question,

Will the Senate agree to the amendment, as amended?

POINT OF INFORMATION

Senator LOEPER. Mr. President, I rise to a point of information.

The PRESIDENT. The gentleman from Delaware, Senator Loeper, will state it.

Senator LOEPER. Mr. President, is the issue before the Senate at this point the Scanlon amendment as amended by the Loeper amendment?

The PRESIDENT. The gentleman is correct.

And the question recurring,

Will the Senate agree to the amendment, as amended?

The yeas and nays were required by Senator SCANLON and were as follows, viz:

YEAS—32

Andrezeski	Fumo	Lemmond	Rocks
Armstrong	Greenleaf	Lewis	Salvatore
Baker	Greenwood	Loeper	Shaffer
Belan	Helfrick	Madigan	Shumaker
Bell	Holl	Pecora	Tilghman
Brightbill	Hopper	Punt	Wenger
Fattah	Jones	Reibman	Williams
Fisher	Jubelirer	Rhoades	Wilt

NAYS—16

Bodack	Lynch	Peterson	Scanlon
Dawida	Mellow	Porterfield	Stapleton
Hess	Musto	Regoli	Stewart
Lincoln	O'Pake	Ross	Stout

A majority of the Senators having voted "aye," the question was determined in the affirmative.

On the question,
Will the Senate agree to the bill, as amended?
It was agreed to.

Senator LOEPER. Mr. President, I move that House Bill No. 376, as amended, be rereferred to the Committee on Appropriations.

The motion was agreed to.

The PRESIDENT. House Bill No. 376, as amended, will be rereferred to the Committee on Appropriations.

HOUSE MESSAGES

HOUSE BILLS FOR CONCURRENCE

The Clerk of the House of Representatives presented to the Senate the following bills for concurrence, which were referred to the committees indicated:

December 11, 1989

HB 103 — Committee on Intergovernmental Affairs.

HB 240 and 1956 — Committee on Transportation.

HB 855 — Committee on Judiciary.

SPECIAL ORDER OF BUSINESS

ANNOUNCEMENTS BY THE SECRETARY

The SECRETARY. The Majority and Minority Leaders have given their permission for the Committee on Intergovernmental Affairs to meet during today's Session to consider House Bill No. 103, and the Committee on Judiciary to consider House Bill No. 855.

ANNOUNCEMENTS BY MAJORITY LEADER

Senator LOEPER. Mr. President, at this time I would ask that we call the off-the-floor meeting of the Committee on Judiciary to be held in the Rules room at the rear of the Senate Chamber. We still have two additional committees, the Committee on Intergovernmental Affairs and the Committee on Banking and Insurance, to hold recessed meetings, and they would follow after the meeting of the Committee on Judiciary. So would the Members of those committees please remain on the floor while we finish the rest of the Calendar.

The PRESIDENT. The Chair thanks the gentleman and would remind all the Members of the Senate that what we are going to attempt to do is to proceed with the recessed meetings of three different committees, beginning with the Committee on Judiciary, followed by the Committee on Intergovernmental Affairs, followed by the Committee on

Banking and Insurance. Those three meetings will take place successively in the Rules room at the rear of the Senate Chamber while we proceed with the Second Consideration Calendar.

SECOND CONSIDERATION CALENDAR RESUMED
BILLS OVER IN ORDER

HB 421, 422 and 423 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILL REREFERRED

SB 649 (Pr. No. 1769) — The Senate proceeded to consideration of the bill, entitled:

An Act establishing a Statewide hazardous material safety program; creating the Hazardous Material Response Fund; providing for the creation of Hazardous Materials Emergency Response Account in each county; further providing for the powers and duties of the Pennsylvania Emergency Management Agency, of the Pennsylvania Emergency Council, and of the counties and local governments; imposing obligations on certain handlers of hazardous materials; imposing penalties; and making an appropriation.

Upon motion of Senator LOEPER, and agreed to, the bill was rereferred to the Committee on Appropriations.

BILLS ON SECOND CONSIDERATION

HB 682 (Pr. No. 1568) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for wiretapping in relation to the offense of dealing in infant children.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

HB 810 (Pr. No. 2581) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), known as the "Public School Code of 1949," prohibiting the possession by students of telephone paging devices.

Considered the second time and agreed to,
Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

SB 824 and 889 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILLS ON SECOND CONSIDERATION

SB 952 (Pr. No. 1770) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 14, 1972 (P. L. 233, No. 64), entitled "The Controlled Substance, Drug, Device and Cosmetic Act," providing for the limitation of the prescription of amphetamines.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

HB 964 (Pr. No. 2845) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for contraband.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

BILL OVER IN ORDER

SB 1272 — Without objection, the bill was passed over in its order at the request of Senator LOEPER.

BILLS ON SECOND CONSIDERATION

HB 1274 (Pr. No. 2852) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for the sale of tobacco and for drug trafficking offenses and penalties; and providing for illegal use of real property.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

HB 1275 (Pr. No. 2846) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 14, 1972 (P. L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," providing for designer drugs.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

HB 1276 (Pr. No. 1469) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for additional aggravating circumstances in death penalty cases.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

HB 1277 (Pr. No. 2847) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing for dealing in proceeds of unlawful activities.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

HB 1279 (Pr. No. 2853) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for mandatory

minimum sentences for multiple sales of certain controlled substances within a period of 90 days and for determining quantities of controlled substances.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

HB 1280 (Pr. No. 2848) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, defining the offense of drug delivery resulting in death; and providing penalties.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

BILL REREFERRED

SB 1297 (Pr. No. 1783) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of October 21, 1988 (P. L. 962, No. 114), entitled "Highway Supplement to the Capital Budget Act of 1987-1988," adding projects in Blair, Centre and Lycoming Counties; further describing a highway project in McKean County; adding projects in Tioga and Washington Counties; and increasing the debt authorization and appropriation.

Upon motion of Senator LOEPER, and agreed to, the bill was rereferred to the Committee on Appropriations.

BILL ON SECOND CONSIDERATION

HB 1298 (Pr. No. 2849) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 14, 1972 (P. L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," further providing for prohibited acts and penalties; providing for recidivism penalties; and further providing for pre-trial disposition of certain cases.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

SB 1341, 1351, 1366 and 1368 — Without objection, the bills were passed over in their order at the request of Senator LOEPER.

BILLS ON SECOND CONSIDERATION

HB 1615 (Pr. No. 2716) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 23, 1945 (P. L. 926, No. 369), referred to as the "Public Eating and Drinking Place Law," authorizing second class townships and certain home rule municipalities to license public eating and drinking places; and making editorial changes.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

HB 1895 (Pr. No. 2857) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), known as "The Administrative Code of 1929," reestablishing the Office of Consumer Advocate; and making a repeal.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

HB 2009 (Pr. No. 2657) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of November 18, 1968 (P. L. 1052, No. 322), known as the "Sewage Treatment Plant and Waterworks Operators' Certification Act," reestablishing the State Board for Certification of Sewage Treatment Plant and Waterworks Operators; and making editorial changes.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

HB 2118 (Pr. No. 2886) — The Senate proceeded to consideration of the bill, entitled:

An Act providing for capital projects for the Department of Corrections; providing for the issuance of bonds; and making an appropriation.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

UNFINISHED BUSINESS

REPORTS FROM COMMITTEES

Senator CORMAN, from the Committee on Transportation, reported the following bill:

HB 1890 (Pr. No. 2423)

An Act authorizing and directing the Department of General Services, with the approval of the Governor and the Secretary of Environmental Resources, to convey to Morris Township a road situate in Morris Township, Tioga County, Pennsylvania.

Senator TILGHMAN, from the Committee on Appropriations, reported the following bill:

HB 1633 (Pr. No. 2714) (Rereported)

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for periodic review of support guidelines; providing for genetic tests in relation to paternity disputes; providing for mandatory attachment of income in orders of support; and providing for a periodic review of support orders.

DISCHARGE PETITIONS

The PRESIDENT laid before the Senate the following communication, which was read by the Clerk as follows:

In the Senate, December 11, 1989.

A PETITION

To place before the Senate the nomination of Herbert L. Hyman, M.D., as a member of the Council of Trustees of Kutztown University.

TO: The Presiding Officer of the Senate

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Herbert L. Hyman, M.D., Allentown, Pennsylvania, as a member of the Council of Trustees of Kutztown University, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

Roy W. Wilt
F. Joseph Loeper
Robert C. Jubelirer
Noah W. Wenger
David J. Brightbill

The PRESIDENT laid before the Senate the following communication, which was read by the Clerk as follows:

In the Senate, December 11, 1989.

A PETITION

To place before the Senate the nomination of Deborah Hammond as a member of the Butler County Board of Assistance.

TO: The Presiding Officer of the Senate

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Deborah Hammond, Butler, Pennsylvania, as a member of the Butler County Board of Assistance, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

Roy W. Wilt
F. Joseph Loeper
Robert C. Jubelirer
Noah W. Wenger
David J. Brightbill

The PRESIDENT laid before the Senate the following communication, which was read by the Clerk as follows:

In the Senate, December 11, 1989.

A PETITION

To place before the Senate the nomination of Charles T. DeTulleo, Esquire, as a District Justice in Chester County.

TO: The Presiding Officer of the Senate

WE, The undersigned members of the Senate, pursuant to section 8 (b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Charles T. DeTulleo, Esquire, Kennett Square, Pennsylvania, as a District Justice in Chester County, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

Roy W. Wilt
F. Joseph Loeper
Robert C. Jubelirer
Noah W. Wenger
David J. Brightbill

The PRESIDENT. The communications will be laid on the table.

CONGRATULATORY RESOLUTIONS

The PRESIDENT laid before the Senate the following resolutions, which were read, considered and adopted:

Congratulations of the Senate were extended to Mr. and Mrs. Joseph E. Schmalhofer, Mr. and Mrs. Maurice E. Stauffer, Mr. and Mrs. Martin S. Fidler, Mr. and Mrs. Arthur D. Smith, Mr. and Mrs. Floyd C. Baker, Mr. and Mrs. Harold Mohr, Sr., Mr. and Mrs. Bernard Frey, Mr. and Mrs. Harold B. Bleacher, Mr. and Mrs. Elwood L. Boehler, Mr. and Mrs. Richard F. Stone, Sr., Mr. and Mrs. Howard Mihan, Mr. and Mrs. Samuel Baer, Mr. and Mrs. Richard R. Haertter, Reverend and Mrs. J. Herbert Fisher, Sr. and to the Elizabethtown College Soccer Team by Senator Armstrong.

Congratulations of the Senate were extended to Scott E. Bellamy, Jon Hoffman, David Phelan, Nigel Obe' Raul Garrett and to the Great Valley High School Boys Soccer Team of Malvern by Senator Baker.

Congratulations of the Senate were extended to Mr. and Mrs. John McNulty and to Mr. and Mrs. Carl Jordan by Senator Bodack.

Congratulations of the Senate were extended to Mr. and Mrs. Paul Fluke, Mr. and Mrs. Harold L. Lukens, Mr. and Mrs. Paul Ernest and to the Bellefonte Area High School Red Raider Football Team by Senator Corman.

Congratulations of the Senate were extended to the Baldwin High School Women's Volleyball Team of Pittsburgh by Senator Fisher.

Congratulations of the Senate were extended to Bud Hannings, Upper Moreland High School Marching Band of Willow Grove and to the Upper Moreland Township High School Girls' Hockey Team of Willow Grove by Senator Greenleaf.

Congratulations of the Senate were extended to C. Agnes Kline by Senator Greenwood.

Congratulations of the Senate were extended to Matthew Dwight Kohr by Senator Hess.

Congratulations of the Senate were extended to the Methacton High School Field Hockey Team of Fairview Village by Senator Holl.

Congratulations of the Senate were extended to Ruth Scarborough by Senator Jones.

Congratulations of the Senate were extended to Mr. and Mrs. Paul G. Becker, Mr. and Mrs. Carl Berkheimer, Mr. and Mrs. George B. Clark, Mr. and Mrs. Kenneth Snyder, Mr. and Mrs. Fred Yost and to Officer Joseph B. Clark by Senator Jubelirer.

Congratulations of the Senate were extended to Donald C. Steele by Senators Jubelirer and Mellow.

Congratulations of the Senate were extended to Werner Fricker by Senator Lewis.

Congratulations of the Senate were extended to J. Peter Dominick by Senators Lewis and Greenwood.

Congratulations of the Senate were extended to Angelo P. Flocco, William J. Reese, Sr. and to John J. MacVeigh III by Senator Loeper.

Congratulations of the Senate were extended to Rupert Woodburn by Senator Madigan.

Congratulations of the Senate were extended to Louis N. Saras by Senator Musto.

Congratulations of the Senate were extended to Gerald Shaner by Senator Pecora.

Congratulations of the Senate were extended to Samuel Rappaport by Senator Salvatore.

Congratulations of the Senate were extended to Mr. and Mrs. Richard H. Peterson, Frederick T. Mullner, Mr. and Mrs. Harry Kaiser Toscano, Mr. and Mrs. Dean E. Critchlow, Mr. and Mrs. Thurman Sipe, Mr. and Mrs. Joseph F. Cherby, Reverend and Mrs. Donald Roemer, Mr. and Mrs. Aldo Cassioli, Mr. and Mrs. John Vioral, Mr. and Mrs. Richard P. Burns and to Mr. and Mrs. Charles S. Moses by Senator Shaffer.

Congratulations of the Senate were extended to Joseph Doctrow by Senator Shumaker.

Congratulations of the Senate were extended to Mr. and Mrs. Lawrence C. Stultz, Mr. and Mrs. Lawrence Phillips, Mr. and Mrs. John Macchiaroli, Mr. and Mrs. Kenneth Baldwin, Mr. and Mrs. Frank Perri, Mr. and Mrs. John Oliverio and to Albert Doriguzzi by Senator Stout.

Congratulations of the Senate were extended to Cindy Mae Graber by Senator Wilt.

CONDOLENCE RESOLUTIONS

The PRESIDENT laid before the Senate the following resolutions, which were read, considered and adopted:

Condolences of the Senate were extended to the family of the late Edward I. Wolfe by Senator Brightbill.

Condolences of the Senate were extended to the family of the late Robert E. Payton by Senator Mellow.

BILL ON FIRST CONSIDERATION

Senator LINCOLN. Mr. President, I move the Senate do now proceed to consideration of the bill reported from committee for the first time at today's Session.

The motion was agreed to.

The bill was as follows:

HB 1890.

And said bill having been considered for the first time,
Ordered, To be printed on the Calendar for second consideration.

COMMUNICATIONS FROM THE GOVERNOR

RECALL COMMUNICATIONS REFERRED TO COMMITTEE

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows, and referred to the Committee on Rules and Executive Nominations:

**MEMBER OF THE BOARD OF TRUSTEES
OF HAVERFORD STATE HOSPITAL**

December 11, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated July 24, 1989 for the appointment of Michael Faucher, 316 South Wayne Avenue, Wayne 19087, Delaware County, Seventeenth Senatorial District, as a member of the Board of Trustees of Haverford State Hospital, to serve until the third Tuesday of January, 1995, and until his successor is appointed and qualified, vice The Very Reverend Thomas Logan, Sr., Yeadon, resigned.

I respectfully request the return to me of the official message of nomination on the premises.

ROBERT P. CASEY.

**MEMBER OF THE BOARD OF TRUSTEES
OF HAVERFORD STATE HOSPITAL**

December 11, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated July 24, 1989 for the appointment of Richard D. Roth, 565 West Wayne Avenue, Wayne, 19087, Delaware County, Seventeenth Senatorial District, as a member of the Board of Trustees of Haverford State Hospital, to serve until the third Tuesday of January, 1993, and until his successor is appointed and qualified, vice David Schaffer, Havertown, resigned.

I respectfully request the return to me of the official message of nomination on the premises.

ROBERT P. CASEY.

**MEMBER OF THE BOARD OF TRUSTEES
OF PHILADELPHIA STATE HOSPITAL**

December 11, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated July 24, 1989 for the appointment of Reverend Joseph C. Aiken, Sr., 1904 Limekiln Pike, Dresher 19025, Montgomery County, Twelfth Senatorial District, as a member of the Board of Trustees of Philadelphia State Hospital, to serve until the third Tuesday of January, 1993, and until his successor is appointed and qualified, vice Daniel A. Hall, M.D., Philadelphia, resigned.

I respectfully request the return to me of the official message of nomination on the premises.

ROBERT P. CASEY.

**MEMBER OF THE BOARD OF TRUSTEES
OF PHILADELPHIA STATE HOSPITAL**

December 11, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated July 24, 1989 for the appointment of Anna F. Jennings, 1340 East Passyunk Avenue, Philadelphia 19147, Phil-

adelphia County, First Senatorial District, as a member of the Board of Trustees of Philadelphia State Hospital, to serve until the third Tuesday of January, 1991, and until her successor is appointed and qualified, vice Lila R. Cohen, Philadelphia, resigned.

I respectfully request the return to me of the official message of nomination on the premises.

ROBERT P. CASEY.

**MEMBER OF THE BOARD OF TRUSTEES OF
PHILIPSBURG STATE GENERAL HOSPITAL**

December 11, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated August 4, 1989 for the appointment of Veronica Pirow, P. O. Box 17, Hawk Run 16840, Clearfield County, Thirty-fourth Senatorial District, as a member of the Board of Trustees of Philipsburg State General Hospital, to serve until the third Tuesday of January, 1991, and until her successor is appointed and qualified, vice William Strange, Morrisdale, deceased.

I respectfully request the return to me of the official message of nomination on the premises.

ROBERT P. CASEY.

**MEMBER OF THE BOARD OF TRUSTEES OF
PHILIPSBURG STATE GENERAL HOSPITAL**

December 11, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated August 4, 1989 for the appointment of Dennis G. Shealer, 511 Decatur Street, Philipsburg 16866, Clearfield County, Thirty-fourth Senatorial District, as a member of the Board of Trustees of Philipsburg State General Hospital, to serve until the third Tuesday of January, 1993, and until his successor is appointed and qualified, vice Joan Holdren, Philipsburg, resigned.

I respectfully request the return to me of the official message of nomination on the premises.

ROBERT P. CASEY.

**MEMBER OF THE CLEARFIELD COUNTY
BOARD OF ASSISTANCE**

December 11, 1989.

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated August 22, 1989 for the appointment of Catherine Strange (Republican), R. R. 2, Box 6A, Morrisdale 16858, Clearfield County, Thirty-fourth Senatorial District, as a member of the Clearfield County Board of Assistance, to serve until December 31, 1989, and until her successor is appointed and qualified, vice Bernyce A. Dufton, Clearfield, whose term expired.

I respectfully request the return to me of the official message of nomination on the premises.

ROBERT P. CASEY.

HOUSE MESSAGE

HOUSE INSISTS UPON ITS NONCONCURRENCE
IN AMENDMENTS TO HB 121, AND APPOINTS
COMMITTEE OF CONFERENCE

The Clerk of the House of Representatives informed the Senate that the House insists upon its nonconcurrence in Senate amendments to **HB 121**, and has appointed Messrs. O'DONNELL, RYBAK and FREIND as a Committee of Conference to confer with a similar committee of the Senate (if the Senate shall appoint such committee) to consider the differences existing between the two houses in relation to said bill.

BILLS INTRODUCED AND REFERRED

The PRESIDENT laid before the Senate the following Senate Bills numbered, entitled and referred as follows, which were read by the Clerk:

December 11, 1989

Senators HESS and HOPPER presented to the Chair **SB 1396**, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971," further providing for the definition of "farming" and for sales tax on the sale of horses in certain circumstances; and exempting feed for horses from sales tax.

Which was committed to the Committee on FINANCE, December 11, 1989.

Senators GREENWOOD, HELFRICK and MADIGAN presented to the Chair **SB 1397**, entitled:

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949," further providing for payments to certain merged school districts.

Which was committed to the Committee on EDUCATION, December 11, 1989.

Senator HELFRICK presented to the Chair **SB 1398**, entitled:

An Act amending the act of March 4, 1870 (P. L. 343, No. 335), entitled "An act to define the limits and to organize the town of Bloomsburg," further providing for tax levies.

Which was committed to the Committee on LOCAL GOVERNMENT, December 11, 1989.

ANNOUNCEMENTS BY THE SECRETARY

The following announcements were read by the Secretary of the Senate:

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

TUESDAY, DECEMBER 12, 1989

9:30 A.M.	CONSUMER PROTECTION AND PROFESSIONAL LICENSURE (to consider Senate Bills No. 333 and	Room 8E-B Hearing Room East Wing
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901 and State Board of
Psychology Regulation
16A-227 (Final Form); PUC
Final Form Regulations,
L-890049 and L-890051)

10:00 A.M.	GAME AND FISHERIES (to consider Senate Bill No. 647)	Room 460 Conference Room Fourth Floor North Wing
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11:30 A.M.	JUDICIARY (to consider Senate Bill No. 295 and House Bills No. 227, 463, 1068 and 1120)	Room 8E-B Hearing Room East Wing
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11:30 A.M.	PUBLIC HEALTH AND WELFARE (to consider Senate Bill No. 1229)	Room 461 Conference Room Fourth Floor North Wing
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Off The Floor	RULES AND EXECUTIVE NOMINATIONS (to consider certain executive nominations)	Rules Committee Conference Room
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MONDAY, DECEMBER 18, 1989

Noon	JUDICIARY (Public Hearing to receive testimony on the recent incidents at Huntingdon State Correctional Institution)	Raystown Country Inn Route 22 Huntingdon
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REPORT FROM COMMITTEE

Senator ROCKS, from the Committee on Inter-governmental Affairs, reported the following bill:

HB 103 (Pr. No. 2896)

An Act relating to cities and counties of the first class, defining "public property used for public purposes" to include any public assembly facility located on public land primarily used for sports, entertainment, musical concerts and other cultural and entertainment events, including accessory uses incident thereto; authorizing real property tax exemptions; providing for payments in lieu of taxes; and making repeals.

SENATE AT EASE

The PRESIDENT. The Senate will be at ease while we await the reports from the various committees that are presently meeting.

The PRESIDENT pro tempore (Robert C. Jubelirer) in the Chair.

REPORTS FROM COMMITTEES

Senator GREENLEAF, from the Committee on Judiciary, reported the following bill:

HB 855 (Pr. No. 2895)

An Act amending the act of April 14, 1972 (P. L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," classifying anabolic steroids as a Schedule II controlled substance.

Senator HOLL, from the Committee on Banking and Insurance, reported the following bill:

HB 1104 (Pr. No. 2899) (Amended)

An Act amending the act of May 17, 1921 (P. L. 682, No. 284), known as "The Insurance Company Law of 1921," further providing for investments; and providing for benefits for drug abuse and dependency.

BILLS ON FIRST CONSIDERATION

Senator LOEPER. Mr. President, I move the Senate do now proceed to consideration of all bills reported from committees for the first time at today's Session.

The motion was agreed to.

The bills were as follows:

HB 103, 855 and 1104.

And said bills having been considered for the first time,

Ordered, To be printed on the Calendar for second consideration.

ADJOURNMENT

Senator LOEPER. Mr. President, I move the Senate do now adjourn until Tuesday, December 12, 1989, at 1:00 p.m., Eastern Standard Time.

The motion was agreed to.

The Senate adjourned at 10:35 p.m., Eastern Standard Time.