

MAINE STATE LEGISLATURE

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COMMITTEE ON BUSINESS LEGISLATION
REPORT ON ITS STUDY OF
NO-FAULT AUTOMOBILE INSURANCE

Senate

John H. Cox, Chairman
Bennett D. Katz
Guy A. Marcotte

House

Claude N. Trask, Chairman
Edwin F. Maddox
John A. Donaghy
Calvin H. Hamblen
Patrick T. Jackson, Jr.
John B. O'Brien
Anne M. Boudreau
Nancy R. Clark
Maurice Deshaies
James E. Tierney

Report of the Committee on Business Legislation
on Study of No-Fault Automobile Insurance

Six bills to establish "no-fault" automobile insurance were introduced at the Regular Session of the 106th Legislature. Although all of the bills provided in some way for payment of benefits for medical expenses, lost wages and other expenses to the injured person by his own insurance provider on a first party basis, without regard to fault, the bills differed considerably in the changes proposed in the legal system, in the requirements as to which providers could offer the no-fault coverage, and in the approach to whether or not the no-fault coverage should be coordinated with the coverage.

L.D. 1, sponsored by Representative Rodney Ross, was based substantially on the present Delaware law. It provided a maximum benefit level of \$10,000 per person, did not limit tort liability, and had no restrictions as to the type of provider or as to coordination of benefits.

L.D. 1420, sponsored by Representative Claude N. Trask, was drafted by the insurance study commission established by the 105th Legislature. It provided a maximum benefit level of \$2,000 per person. The bill followed the "threshold" approach to limitation of tort liability. Suits in automobile accident cases would not be allowed unless the injured person had hospital or medical expenses of \$500 or more or unless he had a specified type of permanent or significant injury. The bill made the no-fault coverage primary over any other type of insurance or coverage, except for social security, workmen's compensation, medicare or medicaid benefits.

L.D. 1425, sponsored by Senator Richard N. Berry, would have enacted the Uniform Motor Vehicle Accident Reparations Act (UMVARA) drafted by the National Conference of Commissioners on Uniform State Laws. It provided for unlimited total coverage, with an internal weekly limit of \$200 on wage benefits. It established the strongest restrictions on tort liability of any of the bills. The two most significant of these were that tort actions may be brought (1) only for damages for work loss over the \$200 limit if death or total disability for more than 6 months occurred and (2) damages for pain and suffering in excess of \$5,000 only if death, permanent injury or disfigurement or total disability for more than 6 months occurred. The no-fault coverage was primary except for the same subtractable benefits as L.D. 1420.

L.D. 1770, sponsored by Senator Guy Marcotte, did not limit tort liability and provided a maximum benefit level of \$2,000, with the no-fault coverage primary in the same way as in L.D. 1420.

L.D. 1882, sponsored by Representative James E. Tierney, did not limit tort liability, but did limit attorney's contingent fees to only that portion of the recovery in excess of the amount of benefits furnished. The maximum benefit level was \$10,000. The coverage could be provided only by health insurance carriers or non-profit hospital or medical service organizations, and not by motor vehicle insurers. The bill provided for substantially the same subtractable benefits and also stated that providers may subtract benefits payable under any other general health or accident plan or wage protection.

L.D. 1879, sponsored by Senator Peter S. Kelley, was substantially similar to L.D. 1882, except that it provided for a state commission, appointed by the Governor, to negotiate with one of the same type of providers allowed under L.D. 1882, a contract which would cover all Maine drivers.

The Committee on Business Legislation held public hearings on these bills on April 18 and 19 and on May 2, 1973. Many persons appeared as proponents or opponents of the bills and a number of statements were presented. Representatives of both the insurance industry and the legal profession were the majority of the witnesses. The Insurance Department presented actuarial evidence on the cost effect of some of the bills. This study was prepared for the department by an independent actuary employed on a part-time contractual basis because the department could not afford a full-time actuary of its own.

The committee made the determination that it should not endorse any no-fault plan without more information about its effects on overall automobile insurance costs and that a detailed actuarial study was therefore necessary. The Legislature appropriated funds for such a study. Initial contact was made with the firm of Milliman and Robertson, Inc., of Los Angeles, which had experience in the area and which was conducting similar studies for the National Association of Insurance Commissioners and for the U.S. Senate Commerce Committee. Arrangements for the study would not be completed in time for it to be finished before the adjournment of the Regular Session. The Legislature therefore authorized the committee to complete this project and to study the need for no-fault insurance. A

copy of the study order is attached to this report as Appendix A.

After adjournment, the committee reached agreement with Milliman and Robertson, Inc., on the scope of the actuarial study. The committee requested a study of four of the bills, L.D.'s 1, 1420, 1425 and 1882, with consideration of variations to each bill in the level of the threshold and of the no-fault benefits. It was felt that L.D. 1879 was so similar to L.D. 1882 in almost all of its provisions that a separate analysis of that bill would be an unnecessary cost and an analysis of L.D. 1420 with variations of the threshold level would apply to L.D. 1770 as well, since the two bills were very similar except for the threshold level.

The agreement with Milliman and Robertson, Inc., on the terms of the project was completed early in August, 1973. A copy of the committee chairman's letter of confirmation of August 3, 1973 is attached to the report as Appendix B.

After further information about the bills was supplied to the actuarial firm by the Legislative Assistant assigned to the committee, the study was completed and delivered early in October. A copy of the study is attached as Appendix C.

The effect of the six bills on premiums as shown by the study, is summarized as follows:

Sponsor	Bill Number	* Change in Personal Injury Premium Portion Only	** Change in Total Insurance Premium
Rep. Rodney Ross	L.D. 1	8%	3%
Rep. Claude Trask	1420	-15%	-6%
Sen. Richard Berry	1425	30%	12%
Sen. Guy Marcotte	1770	2%	1%
Sen. Peter Kelley	1879	9%	4%
Rep. James Tierney	1882 *	-6%	-2% ***
		or 9%	4%

* Bodily injury liability, first party medical payments, and uninsured motorist coverage.

** Above plus property damage liability and physical damage coverages.

*** Based on universal acceptance and effectiveness of the nonduplication provisions of the bill.

These results must be interpreted with the caveats on their use stated in the attached actuarial study.

Since the study did demonstrate that only two of the six bills, L.D.'s 1420 and 1882, effected a decrease in insurance costs, the committee decided to work primarily with those two bills.

Over the next few months, the committee met several times and discussed the possibility of reconciling the two bills to produce one bill on which most persons could agree. However, the sponsors of these bills, both of whom were members of the committee, were not able to reconcile their views on the fundamental differences between the two bills: the threshold, the issue of primacy and the types of providers.

As a result of the committee discussion, both bills were reintroduced at the Special Session of the 106th Legislature. L.D. 1420, which was

supported by a majority of the committee, was presented as L.D. 2475, with some editorial changes and with the deletion of motorcycles from coverage. L.D. 1882 became L.D. 2405 with some significant changes, particularly with regard to the providers of coverage, which the sponsor had discussed with the committee. Instead of restricting the sale of the coverage only to medical insurance carriers and to non-profit medical service organizations, the new version of the bill allowed these providers to write only the health coverage for the named insured and his family and allowed motor vehicle insurers also to write this, with the provision that it could be sold in combination with the other types of providers. The other parts of the no-fault coverage could be provided only by motor vehicle insurers, a basic change from L.D. 1882. A detailed analysis of the two bills, prepared by the committee's Legislative Assistant, is attached to this report as Appendix D.

The committee held a public hearing on the two L.D.'s during the Special Session and reported out both of them with a majority in favor of L.D. 2475 and a minority for L.D. 2504. When the bills reached the floor of the House of Representatives, there was extensive debate. The House eventually supported L.D. 2504 and rejected 2475. In the Senate, after further detailed debate, both bills were defeated. Since the two bodies had not agreed in their action on L.D. 2504, a committee of conference was appointed, but was not able to meet before the end of the session, thereby precluding the chance of passage of any no-fault bill by the 106th Legislature.

STATE OF MAINE

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In Senate June 12, 1973

~~CONFIDENTIAL~~

WHEREAS, the Legislature is considering six proposals relating to No-fault Automobile Insurance; and

WHEREAS, an actuarial financial review of the impact of such proposals on premiums cannot be completed until July of 1973; and

WHEREAS, evaluation of such information will be necessary at that time before any further determination can be made; now, therefore, be it

ORDERED, the House concurring, that the Legislative Research Committee is authorized and directed to study the subject matter and actuarial information to be received concerning Legislative Documents Numbers 1, 1420, 1425, 1770, 1882 and 1879, to determine to what extent, if any, such is needed and in the best interests of the State; and be it further

ORDERED, that the Motor Vehicle Division of the Office of Secretary of State and Insurance Department be directed to provide the committee with such technical advice and assistance as the committee feels necessary or appropriate to carry out the purposes of this Order; and be it further

ORDERED, that the committee report its findings at the First Special Session of the 106th Legislature in 1974; and be it further

~~CONFIDENTIAL~~~~CONFIDENTIAL~~

ORDERED, that upon passage, a copy of this Order be transmitted forthwith to said agencies as notice of the pending study.

(SP 663)

IN SENATE CHAMBER
TABLED BY S. 12 SEN. COLEMAN
ON _____

JUL 12 1973

Legislative Research Table
Pending Passage

PENDING

RECEIVED SEN. COLEMAN

John H. Cox
(Cox)

NAME:

COUNTY: Penobscot

JOHN H. COX, PENOBSCOT, CHAIRMAN
 BENNETT D. KATZ, KENNEDIC
 GUY A. MARCOTTE, YORK

GLENYS P. LOVETT, CLERK



CLAUDE N. TRASK, MILB, CHAIRMAN
 EDWIN F. MADDOX, VINALHAVEN
 JOHN A. DONAGHY, LUBEC
 CALVIN H. HAMBLIN, BOWHAM
 PATRICK T. JACKSON, YARMOUTH
 JOHN B. O'BRIEN, PORTLAND
 ANNE M. BOUDREAU, PORTLAND
 NANCY R. CLARK, FREEPORT
 MAURICE A. DESHAIES, WESTBROOK
 JAMES E. TIERNEY, LIBBON FALLS

STATE OF MAINE

ONE HUNDRED AND SIXTH LEGISLATURE

COMMITTEE ON BUSINESS LEGISLATION

August 3, 1973

Mr. James R. Berquist
 Milliman & Robertson, Inc.
 80 South Lake Avenue
 Pasadena, California 91101

RE: No-Fault Costing Project

Dear Mr. Berquist:

Due to a budget limitation which was explained to you in a telephone conversation on August 1 with members of my Committee, and with Deputy Commissioner Theodore Briggs of the Insurance Department, it is necessary to revise our original request for costing certain No-Fault proposals and variations.

Based upon our understanding of your fee schedule, we are now desirous of obtaining actuarial costings on the following four Legislative proposals (with your estimated charges):

1. L.D. # 1 -- \$2,500
2. L.D. #1420 -- \$2,750 (\$2,000 plus five separate costings at \$150 each)
 L.D. #1420 has a threshold of \$500 with a minimum benefit level of \$2,000.
 Options desired are: Thresholds of \$0 and \$1,000.
 First party benefit level of \$10,000.
3. L.D. #1882 -- \$2,000 plus
 L.D. #1882 has a benefit level of \$10,000.
 The option desired is: First party benefit level of \$2,000.
4. L.D. #1425 -- (UMVARA)-\$1,500

Copies of L.D. 1, 1420 and 1882 were forwarded with my letter of May 25, 1973. L.D. 1425 is an additional bill and a copy is enclosed.

J.R. Berquist
Page 2
August 3

In accordance with the discussion on August 1, Representative James E. Tierney, sponsor of L.D. 1882, will forward to you a copy of that bill with deletions indicated for those sections which are not to be considered in the costing. You did indicate on the telephone that you would need additional information in order to be able to cost this bill with the deleted provisions included, and you could not be sure at that time what your charges would be for this bill. Representative Tierney has requested that we ask you what additional information you would need. He should be able to obtain this for you from Maine Blue Cross and Blue Shield.

This letter is to be considered as my authorization for Milliman & Robertson, Inc., to cost the aforementioned four No-Fault proposals with specific options. This authorization is subject to a maximum cost to the State of Maine of \$10,000, which is the amount of the Legislative appropriation for this study. It is my understanding that this project will take eight (8) weeks from the time you receive this authorization.

I am designating Mr. Thomas P. Downing, Jr., Legislative Staff Assistant to the Business Legislation Committee, as the person to be contacted for assistance and interpretations relative to this project. His address is Room 427, State House, Augusta, Maine 04330, and his telephone number is 207-289-2486. Mr. Downing is in the process of completing a summary of the testimony on these No-Fault proposals which will be forwarded to you shortly. In addition he will provide you with a list of the sections of these bills which contains a reference to Workmen's Compensation or Medicare.

It should be noted that the Maine Insurance Department anticipates a reduction of approximately six percent in the Private Passenger Automobile rate level in the State of Maine by ISO companies.

Thank you for undertaking this project on our behalf.

Very truly yours,

Honorable John Cox
Senator
Chairman of the Business Legislation
Committee
106th Maine Legislature

COST ESTIMATE STUDY OF
AUTOMOBILE INSURANCE BILLS

PREPARED FOR THE
BUSINESS LEGISLATION COMMITTEE
SENATE, STATE OF MAINE

STUDY CONDUCTED BY
MILLIMAN & ROBERTSON, INC.
PASADENA, CALIFORNIA

September 29, 1973

COST ESTIMATE STUDY OF AUTOMOBILE INSURANCE BILLS

This report has been prepared as part of the cost estimate study authorized by the Committee on Business Legislation of the 106th Maine Legislature. The study was designed to evaluate the cost implications to the consumer of enactment of any of the following four automobile insurance bills:

- 1) Legislative Document No. 1
- 2) Legislative Document No. 1420
- 3) Legislative Document No. 1425
- 4) Legislative Document No. 1882

The study has been completed, and a synopsis of the results is presented in Exhibits A. The exhibits show the estimated premium change for the average insured vehicle to be expected from enactment of the proposed legislation, subject to the very important caveats in Exhibit H. For example, the study finding regarding LD 1 is that the personal injury portion (i. e. bodily injury liability, first-party medical payments, and uninsured motorist coverage) of the average automobile insurance premium would increase 8%, which is approximately equivalent to a 3% increase in the total premium (i. e. the foregoing plus property damage liability and physical damage coverages).

Exhibits A are based on a hypothetical model that is representative of the state of Maine in proportional, but not absolute, terms. The 100,000 injury radix and the other nonproportional entries of the exhibits are probably five or six times larger than actual Maine experience. This relationship was

not thoroughly explored in the course of the study, however, for it has no bearing on the proportional conclusions at the bottom of each exhibit, and it is these percentages that the study was designed to develop.

Exhibit A-1 indicates that enactment of LD 1 would increase total insured losses, including loss adjustment expenses, by 20%. Assuming that other expenses would retain the same proportional relationship to losses, the total personal injury automobile premium pool would also increase 20%. Compulsory insurance features of the bill, however, are assumed to cause the proportion of motorists having insurance to increase from 84% to 93%. Thus, the total premium pool would be spread over a larger base, and the personal injury premium increase would average only 8%. A similar analysis pertains in the case of the other bills.

Exhibits B present the findings of Exhibits A broken out between first party and residual liability components under the no-fault system. The sums of the two columns of Exhibit B for each bill equal the amounts in the last column of Exhibit A for that bill.

Exhibits C show the major cost-significant provisions of the bills as submitted for evaluation. Alternative provisions and their cost implications are discussed elsewhere.

LD 1 is a non-threshold bill that limits tort actions exclusively by precluding no-fault benefits as evidence. First-party benefits are limited to \$10,000, with few inside limits by coverage and no offsets, but with no survivor benefits. There is a 12-month duration limit concerning no-fault benefits but since losses need merely be determinable during that period, and not necessarily accrued, it has been assumed that this limit has no appreciable

cost impact on wage loss benefits. Property damage liability and physical damage coverages are provided in the bill, but the cost implications thereof, which are not believed to be major, have not been addressed by the study. Coverage is mandatory, including \$25,000 liability coverage.

LD 1420 is a \$500 threshold bill that limits no-fault benefits to a maximum of \$2,000 and to an accrual period of four years. The 20% coinsurance feature is assumed to apply to wage loss benefits after deduction of the 15% income tax offset. Subrogation is permitted only when a tort claim is pursued, which is assumed to be 25% of the time. The threshold applies to suits for economic loss as well as general damages, and includes an aggregate exemption of \$2,000 in addition to the medical cost qualifying point of \$500. Coverage is mandatory, including \$20,000 minimum liability insurance.

LD 1425 is a high-threshold bill that places no aggregate limit on no-fault benefits. The threshold actually is expressed in terms of the requirement that disability last six months or more, and in addition there is a \$5,000 deductible applied to general damage awards, although it is assumed that jury awards will reduce this to an effective \$2,500 deductible. Wage loss and survivor benefits are limited to \$200 per week. Coverage is compulsory, including \$25,000 or more of bodily injury liability insurance.

LD 1882 is a non-threshold bill that limits no-fault benefits to a maximum of \$10,000. There is no inside limit on medical costs, but wage loss benefits are limited to \$3,900 and service benefits to \$1,300. The death benefit is automatic full payment of the maximum no-fault benefit, whether or not there are survivors. Premium rates from 1975 are required to be functions of subrogation recoveries and interest earnings, and as well to generate a

minimum 80% loss ratio, but these future requirements were not considered in the study. No-fault coverage is compulsory, but liability coverage is optional under the bill.

Motorcycles are excluded from compulsory coverage under LD 1882, but are included under the other three bills. No-fault coverage is substantially more expensive to motorcyclists than is liability coverage.

Reasonable enforcement of the compulsory features of the bills is anticipated by the study. The conclusions drawn are quite sensitive to the insured ratio assumptions, and nonenforcement of mandatory provisions would have an adverse effect that could be significant.

With the exception of LD 1, benefits are overdue if not paid within 30 days of receipt of reasonable proof by the carrier. The monthly interest penalty on overdue payments is 1% in LD 1420, 1-1/2% in LD 1425, and 2% in LD 1882.

The study is addressed only to the compulsory coverage provisions of the bills and not to any optional deductibles or incremental benefits that may be expected, respectively, to reduce or increase accordingly the premium payable by an insured exercising the option.

Exhibit D presents some of the input assumptions to the computer model that is the foundation for the study. The goal has been to set forth those assumptions having a relatively high degree of subjectivity in order that the careful reader may understand the extent (which is moderate) to which actuarial judgment combines with relevant statistics to form the input to the model. For example, it is our judgment that permissible charges for

providing claim information under LD 1420 will add 2% to medical costs in the data base. Conversely, it is also our judgment that the one-year time limit provision of LD 1 will reduce medical costs by 5%. To the extent that these and other judgments are in error, of course, the study conclusions will be affected accordingly.

One of the more important sets of assumptions and statistics is that supporting the calculation of survivor benefit costs under LD 1425. Approximately half the total cost under this bill is in death costs, which includes residual liability and funeral and pre-death medical costs as well as no-fault survivor benefits. Statistics show the average survivor to be a female age 40, and it is assumed that the decedent, or the survivor in the case of service benefits, is a male age 43. Wage loss benefits are assumed payable for 22 years (to age 65 of the husband) and service loss benefits are assumed payable for life. Remarriage rates are assumed to be negligible, in part because of the size of the benefit provided. The mortality table used is the 1959-61 United States White Male and Female Life Table, and the interest rate 5% per annum. The resulting death cost projection can be seen to contribute heavily to the cost increase projection under LD 1425.

Exhibit E deals with the alternative provisions specified in the costing instructions. For example, removing the dollar threshold under LD 1420 would have the net effect of increasing the average personal injury premium by 17% relative to the impact of the basic bill. Since that impact is expected to be a 15% reduction, as shown in Exhibit A-2, the corresponding impact of the revised bill (with the alternative provision) may be taken to be a 2% increase in the personal injury premium and a 1% increase in the total auto premium.

A potentially significant provision in LD 1882 is that which provides that the no-fault carrier must offer insurance under which group health and related benefits would be primary coverage, the goal being to avoid duplicate payments. Since this offset package is optional, our basic costing of LD 1882 assumes that the provision will not be effective. We have also costed the bill on the assumption that the provision would be fully effective in all policies, however, and the study shows a relative personal injury premium saving of 15%. Accordingly, on this assumption, the revised Exhibit A-4 change would be a 6% reduction in the average personal injury premium, and correspondingly a 2% reduction in the average total premium. Underlying assumptions are that 80% of the population is covered by basic group health insurance that covers half of all medical costs and that 40% have as well group major medical insurance that covers 80% of the other half. It is also assumed that 25% of the population has group income replacement coverage that is fully as effective as the wage loss provision in LD 1882.

It has been contended that the expense level of a no-fault system will depend on the type of carrier providing insurance. This contention is not denied, but neither has it been endorsed in the course of the study. The result, of course, is the implicit assumption that expenses will not vary by type of carrier. To the extent that the assumption can be demonstrated to be in error, the conclusions drawn should be adjusted accordingly. If, for example, no premium tax is to be payable under one of the proposed bills, the premium payable by the average insured motorist will be reduced in direct proportion. A similar result will apply if the average commission level is reduced, provided there is no offsetting increase in other costs of administration. As stated above, this study assumes that loss adjustment expenses will

change under a no-fault system but will not vary by type of carrier, and that other expenses will not change proportionally and also will not vary by type of carrier.

Exhibit F presents the qualifications of our firm, and of the actuaries involved, to conduct this study.

Exhibit G briefly describes the computer model that is an important tool of our no-fault costing system, and as well the developmental project for that model and system.

Exhibit H presents a number of caveats pertaining to the study results and their use, and should be read carefully by anyone having occasion to represent or describe those results to others.

We appreciate the opportunity to have been of service to the Committee, and will be happy to answer any questions pertaining to the study or its conclusions.

MILLIMAN & ROBERTSON, INC.

Frederick W. Kilbourne
Frederick W. Kilbourne
Consulting Actuary

EXHIBIT A-1

MAINE - LEGISLATIVE DOCUMENT NO. 1

COMPARISON OF PRESENT AND PROPOSED SYSTEMS

<u>Benefit</u>	<u>PRESENT SYSTEM</u>			<u>PROPOSED SYSTEM</u>		
	<u>Injuries</u>	<u>Average</u>	<u>Amount</u>	<u>Injuries</u>	<u>Average</u>	<u>Amount</u>
Medical Expenses	49,665	348	17,303	86,179	333	28,656
Wage Loss	18,858	611	11,522	35,033	709	24,853
Services Loss	5,292	364	1,927	18,710	358	6,705
Death Costs	758	12,686	9,616	1,533	9,740	14,931
General Damages	47,038	1,041	<u>48,946</u>	38,418	<u>1,136</u>	<u>43,659</u>
Total Costs of Above			89,314			118,804
Medical Payments by Option			9,343			1,710
Loss Adjustment Expenses			<u>18,745</u>			<u>20,458</u>
Total System Costs			117,402			140,972
Change in Total System Costs						+20%
Overall Insured Ratios			84%			93%
Change for Average Insured Vehicle						+8%*
Change Related to Total Automobile Insurance Premium						+3%*

Notes:

- 1) Injuries shown are numbers of injuries based on a radix of 100,000.
- 2) Averages are dollar amounts per injury.
- 3) Amounts are in thousands of dollars.
- *4) Neither these numbers nor the other numbers in this report should be used or released without reference to the caveats in Exhibit H attached.

EXHIBIT A-2

MAINE - LEGISLATIVE DOCUMENT NO. 1420

COMPARISON OF PRESENT AND PROPOSED SYSTEMS

<u>Benefit</u>	<u>PRESENT SYSTEM</u>			<u>PROPOSED SYSTEM</u>		
	<u>Injuries</u>	<u>Average</u>	<u>Amount</u>	<u>Injuries</u>	<u>Average</u>	<u>Amount</u>
Medical Expenses	49,665	348	17,303	83,669	330	27,622
Wage Loss	18,858	611	11,522	34,635	433	15,004
Services Loss	5,292	364	1,927	19,466	319	6,214
Death Costs	758	12,686	9,616	1,589	8,247	13,104
General Damages	47,038	1,041	<u>48,946</u>	11,280	2,559	<u>28,870</u>
Total Costs of Above			89,314			90,814
Medical Payments by Option			9,343			4,240
Loss Adjustment Expenses			<u>18,745</u>			<u>14,897</u>
Total System Costs			117,402			109,951
Change in Total System Costs						-6%
Overall Insured Ratios			84%			93%
Change for Average Insured Vehicle						-15%*
Change Related to Total Auto Insurance Premium						-6%*

Notes:

- 1) Injuries shown are numbers of injuries based on a radix of 100,000.
- 2) Averages are dollar amounts per injury.
- 3) Amounts are in thousands of dollars.
- *4) Neither these numbers nor the other numbers in this report should be used or released without reference to the caveats in Exhibit H attached.

9/29/73

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EXHIBIT A-3

MAINE - LEGISLATIVE DOCUMENT NO. 1425

COMPARISON OF PRESENT AND PROPOSED SYSTEMS

<u>Benefit</u>	<u>PRESENT SYSTEM</u>			<u>PROPOSED SYSTEM</u>		
	<u>Injuries</u>	<u>Average</u>	<u>Amount</u>	<u>Injuries</u>	<u>Average</u>	<u>Amount</u>
Medical Expenses	49,665	348	17,303	82,656	397	32,798
Wage Loss	18,858	611	11,522	34,270	585	20,051
Services Loss	5,292	364	1,927	14,079	425	5,978
Death Costs	758	12,686	9,616	1,581	48,644	76,906
General Damages	47,038	1,041	<u>48,946</u>	7,300	<u>2,076</u>	<u>15,157</u>
Total Costs of Above			89,314			150,890
Medical Payments by Option			9,343			-
Loss Adjustment Expenses			<u>18,745</u>			<u>17,950</u>
Total System Costs			117,402			168,840
Change in Total System Costs						+44%
Overall Insured Ratios			84%			93%
Change for Average Insured Vehicle						+30%*
Change Related to Total Automobile Insurance Premium						+12%*

Notes:

- 1) Injuries shown are numbers of injuries based on a radix of 100,000.
- 2) Averages are dollar amounts per injury.
- 3) Amounts are in thousands of dollars.
- *4) Neither these numbers nor the other numbers in this report should be used or released without reference to the caveats in Exhibit H attached.

9/29/73

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EXHIBIT A-4

MAINE - LEGISLATIVE DOCUMENT NO. 1882

COMPARISON OF PRESENT AND PROPOSED SYSTEMS

<u>Benefit</u>	<u>PRESENT SYSTEM</u>			<u>PROPOSED SYSTEM</u>		
	<u>Injuries</u>	<u>Average</u>	<u>Amount</u>	<u>Injuries</u>	<u>Average</u>	<u>Amount</u>
Medical Expenses	49,665	348	17,303	75,946	366	27,777.
Wage Loss	18,858	611	11,522	32,270	439	14,156
Service Loss	5,292	364	1,927	18,215	257	4,676
Death Costs	758	12,686	9,616	1,490	16,001	23,841
General Damages	47,038	1,041	<u>48,946</u>	39,542	<u>1,102</u>	<u>43,560</u>
Total Costs of Above			89,314			114,010
Medical Payments by Option			9,343			1,787
Loss Adjustment Expenses			<u>18,745</u>			<u>18,598</u>
Total System Costs			117,402			134,395
Change in Total System Costs						+14%
Overall Insured Ratios			84%			88%
Change for Average Insured Vehicle						+9%*
Change Related to Total Auto Insurance Premium						+4%*

Notes:

- 1) Injuries shown are numbers of injuries based on a radix of 100,000.
- 2) Averages are dollar amounts per injury.
- 3) Amounts are in thousands of dollars.
- *4) Neither these numbers nor the other numbers in this report should be used or released without reference to the caveats in Exhibit H attached.

9/29/73

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EXHIBIT B-1

MAINE - LD 1 AND LD 1420

NO-FAULT AND RESIDUAL LIABILITY COSTS IN PROPOSED SYSTEMS

<u>Benefit</u>	<u>L. D. #1</u>		<u>L. D. #1420</u>	
	<u>No-Fault</u>	<u>Liability</u>	<u>No-Fault</u>	<u>Liability</u>
Medical Expenses	25,829	2,827	20,440	7,182
Wage Loss	23,264	1,589	11,326	3,678
Services Loss	6,382	323	4,960	1,254
Death Costs	4,865	10,066	3,064	10,040
General Damages	-	43,659	-	28,870
Totals Above	60,340	58,464	39,790	51,024
Medical Payments	1,710	-	4,240	-
Loss Expenses	7,921	12,537	5,222	9,675
Total Costs	69,971	71,001	49,252	60,699

Note: Entries are in thousands of dollars

EXHIBIT B-2

MAINE - LD 1425 AND LD 1882

NO-FAULT AND RESIDUAL LIABILITY COSTS IN PROPOSED SYSTEMS

<u>Benefit</u>	<u>L. D. #1425</u>		<u>L. D. #1882</u>	
	<u>No-Fault</u>	<u>Liability</u>	<u>No-Fault</u>	<u>Liability</u>
Medical Expenses	32,238	560	26,710	1,067
Wage Loss	19,148	903	9,771	4,385
Services Loss	5,755	223	2,640	2,036
Death Costs	70,201	6,705	14,000	9,841
General Damages	-	<u>15,157</u>	-	<u>43,560</u>
Totals Above	127,342	23,548	53,121	60,889
Medical Payments	-	-	1,787	-
Loss Expenses	<u>13,306</u>	<u>4,644</u>	<u>5,900</u>	<u>12,698</u>
Total Costs	140,648	28,192	60,808	73,587

Note: Entries are in thousands of dollars

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EXHIBIT C-1

MAINE - LD 1 AND LD 1420

SIGNIFICANT BILL PROVISIONS

<u>PROVISION</u>	<u>L. D. #1</u>	<u>L. D. #1420</u>
No-fault benefit maximum	\$10,000	\$2,000*
Specific medical cost limit	None	None
Wage loss limits:		
aggregate	None	None
per week	None	None
duration	None	4 years
proportion	100%	80%
Service loss limit	None	4 years
Funeral benefit	\$2,000	\$1,000
Survivor benefit	None	\$2,000*
Threshold:		
economic loss	None	\$2,000
general damages	None	\$500 medical*
Financial responsibility	\$25,000	\$20,000

*Note: Alternative provisions are covered in Exhibit E.

EXHIBIT C-2

MAINE - LD 1425 AND LD 1882

SIGNIFICANT BILL PROVISIONS

No-fault benefit maximum	No limit	\$10,000*
Specific medical cost limit	None	None
Wage loss limits:		
aggregate	None	None
per week	\$200	\$150
duration	None	26 weeks
proportion	100%	75%
Service loss limit:		
per week	\$200	\$50
duration	None	26 weeks
Funeral benefit	\$500	None
Survivor benefit	\$200 per week	\$10,000 flat
Threshold:		
economic loss	6 months disability	None
general damages	\$5,000 deductible	None
Financial responsibility	\$25,000	No change

*Note: Alternative provisions are covered in Exhibit E.

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EXHIBIT D
MAINE - FOUR BILLS
SIGNIFICANT INPUT ASSUMPTIONS

- 1) Rehabilitation provisions will add 5% to medical costs included in the data base (1420, 1425, 1882).
- 2) One-year incurral period will reduce medical costs by 5% (1) while a four-year period will save 1% (1420).
- 3) Liberal injury definition and charges for providing claim information will each add 2% to medical costs (1420).
- 4) Medical costs beyond \$10,000 per claim will add 6% to medical costs limited to \$10,000 per claim (1425).
- 5) Medical and wage loss costs will be reduced 5% each by offsets for workmen's compensation (1420, 1425, 1882).
- 6) Government program offsets will reduce medical costs by 2% under LD 1420 and LD 1425, and by 5% under LD 1882.
- 7) Income tax offset provisions will reduce gross wage loss costs by 15% (1420, 1425, 1882).
- 8) Wage loss costs beyond \$10,000 per claim will add 10% to wage loss costs limited to \$10,000 per claim (1425).
- 9) 25% coinsurance will not reduce service benefit costs due to the \$50 weekly benefit maximum (1882).
- 10) Survivor benefits are based on population mortality, are discounted at 5% interest, and continue until the decedent would have reached age 65 (1425).
- 11) Subrogation by the no-fault carrier will not reduce survivor benefits received from the liability carrier (all).

- 12) Average liability limits will be \$5,000 greater than the financial responsibility minimum (all).
- 13) Persons with nonserious injuries yet eligible to take tort action will do so 75% of the time under LD 1, 80% under LD 1882, 95% under LD 1420, and 100% under LD 1425.
- 14) Persons with nonserious injuries and ineligible to take tort action will nonetheless do so 5% of the time (1420).
- 15) Exclusion of diagnostic x-rays and rehabilitation expenses over \$100 causes a \$500 threshold to be an effective \$550 threshold (1420).
- 16) Economic loss lawsuits are permitted for wage loss beyond \$200 weekly in case of serious injury only (1425).
- 17) Purchase of medical payments will be reduced one-half with a \$2,000 maximum (1420), four-fifths with a \$10,000 maximum (1, 1882), and will be eliminated with an unlimited medical benefit (1425).
- 18) Loss adjustment expenses will change from 19% under the current system to 25% for general damages residual liability claims, 10% for death claims, and 13% for no-fault benefits with full subrogation (1), 12% with partial subrogation (1420) and 11% with no subrogation (1425, 1882).
- 19) Compulsory insurance features will cause one-fourth of those now uninsured to purchase insurance under LD 1882, and one-half to do so under the other bills.
- 20) The personal injury premium averages 40% of the total automobile insurance premium.

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EXHIBIT E
MAINE - LD 1420 AND LD 1882
ALTERNATIVE COST STUDY PROVISIONS

<u>Bill</u>	<u>Maximum Benefit</u>	<u>Thresh- old</u>	<u>Adjust- ment</u>	<u>Revised (Injury)</u>	<u>Revised (Total)</u>
1420	\$ 2,000	0	+17%	+2%	+1%
1420	10,000	0	+27%	+12%	+5%
1420	10,000	500	+8%	-7%	-3%
1420	2,000	1,000	-4%	-19%	-8%
1420	10,000	1,000	+5%	-10%	-4%
1882	2,000	0	-7%	+2%	+1%
1882	5,000	0	-3%	+6%	+2%

Note: Adjustments shown are to the Exhibit A changes for average insured vehicle in personal injury premiums payable. The revised Exhibit A changes for each alternative are also shown as applied to the personal injury premium and to the total automobile insurance premium.

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EXHIBIT F
MAINE COST ESTIMATE STUDY
QUALIFICATIONS OF CONSULTING ACTUARIES

Milliman & Robertson, Inc. is an independent consulting actuarial firm with headquarters in Seattle and offices in fifteen other cities throughout the United States and Canada. Ownership of the firm, which began operations in 1947, is entirely in the hands of actuaries in its employ.

The professional staff of the firm includes five members of the Casualty Actuarial Society. Contributions to this study were as follows;

- 1) Frederick W. Kilbourne, FCAS - primary responsibility for the study.
- 2) Janet S. Graves, ACAS - secondary responsibility and operation of computer model.
- 3) James R. Berquist, FCAS - peer review of study conclusions and final report.

EXHIBIT G
MAINE COST ESTIMATE STUDY
NAIC NO-FAULT COST ESTIMATING PROJECT

The costing method used in our study has at its foundation the computerized model developed by us for the National Association of Insurance Commissioners with funds provided by the federal Department of Transportation and the Ford Foundation. The sole purpose of this model is to facilitate evaluation of the cost implications of proposed changes in an automobile insurance system, generally from a tort basis to a no-fault basis.

The model operates by postulating a distribution of persons injured in automobile accidents. The cost of these injuries is then evaluated under each of the insurance systems (tort and no-fault), and total costs are then compared. The distribution of injuries recognizes such factors as vehicle type, severity of injury and the number of vehicles involved. The cost of each injury recognizes the amounts being paid under the current tort system, and first-party benefit provisions in the proposed no-fault legislation, and any residual tort rights under no-fault. The model also takes into account such factors as the eligibility for first-party benefits of various vehicle types, the percentage of vehicles insured, the provisions of the assigned claims plan, the number of injuries in the state involving out-of-state vehicles, and the number of injuries occurring outside the state.

In addition to bodily injury liability coverage, the model also recognizes the presence of uninsured motorist and medical payments coverages under the current system, and makes assumptions about the extent to which they

will be continued under the proposed system. Changes in loss adjustment expense levels are also taken into account.

This description covers the logic of the model; it must also have data to which the logic is applied. The principal data base has been the accident statistics developed by the state motor vehicle departments, and the closed claim survey conducted in 1969 as part of the Department of Transportation study of automobile insurance. This data has been analyzed on both a nationwide and a state-by-state basis, and has been specifically tailored to Maine for the purpose at hand. Other data sources, both insurance and non-insurance, have been utilized, as has a fair amount of considered professional judgment.

This professional judgment is an inescapable part of any cost evaluation of no-fault proposals. The model attempts to predict costs under a new and substantially changed system, and while we believe that we have been as independent and objective as possible in our judgments, they are judgments nevertheless. To improve our judgments, we have visited the states of Massachusetts, Delaware, and Florida, each of which has had a no-fault law in effect for over one year. We have reviewed our model with numerous other casualty actuaries familiar with no-fault costing, employed by both insurance companies and insurance departments. But, in the last analysis, these are our own independent conclusions.

EXHIBIT H

MAINE COST ESTIMATE STUDY

CAVEATS PERTAINING TO NUMERICAL RESULTS

Although the conclusions presented in this report are probably the best estimates available, it must be recognized that they are nonetheless subject to a rather low degree of certainty, as well as being very susceptible to misinterpretation. We thus feel compelled to specify that those conclusions not be used nor released except in conjunction with the following caveats:

- 1) Premium change indications are generally expressed in terms of the "people damage" portion of the average automobile insurance premium without regard to the more costly "automobile damage" portion. The expected impact on the average total automobile insurance premium is substantially smaller, as shown in Exhibits A.
- 2) Premium change indications refer to the average automobile insurance premium, without distinction as to type or usage of vehicle. Inclusion of motorcyclists under the no-fault law, for example, may be expected to increase premiums greatly for this group of motorists.
- 3) Our study did not deal with the expected changes in rating classifications and territorial relativities, which may be substantial. Generally speaking, urban areas may be expected to experience results somewhat more favorable than shown, and rural areas significantly less favorable.
- 4) The cost implications of the input assumptions and supporting data base to the model should not be overlooked nor underestimated. This is particularly true where there is a combination of uncertainty and cost impact, such as of psychological factors affecting tort action rates and large first-party losses based on sparse data of limited applicability to no-fault auto insurance.

- 5) Our study deals exclusively with the relativity between the current and proposed systems, and not with inadequacies nor redundancies in current premium rates. Mandated premium rate decrease provisions, which were not addressed by our study, should be evaluated with this caveat prominently in mind.
- 6) Attention has been given to the automobile insurance system only, and not to the effects of changes in that system on other lines of insurance or public institutions or personal finances.
- 7) The findings presented in this report reflect no more than an attempt to predict the relative cost implications of passage of a particular bill, and not the effects of various other influences on automobile insurance premiums. Such influences are many, and include changes in automobile safety features, enforcement of driver standards, and general economic conditions, to name a few.

COMPARISON OF NO-FAULT BILLS
FOR BUSINESS LEGISLATION COMMITTEE

- I Introduction
- II Providers
- III Coordination of Coverage, or Primacy
- IV Limitation of Tort Liability
- V Subrogation or Reimbursement
- VI Insurance Requirements
- VII Coverage
 - A. Medical, Hospital and Funeral Expenses
 - B. Loss of Wages
 - C. Expense for Necessary Services
 - D. Survivor's Loss
- VIII Other Features

Thomas P. Downing

Legislative Assistant

I Introduction.

The two bills on no-fault automobile insurance scheduled for hearing before the Committee on Business Legislation on February 20, 1974 are based on two of the six bills considered by the committee during the regular session.

L.D. 2475, AN ACT Providing for No-Fault Motor Vehicle Insurance, sponsored by Representative Claude N. Trask, is based on L.D. 1420. There have been a few editorial changes, motorcycles have been excluded from coverage, and the section on limitation of tort liability has been re-drafted to read more clearly.

L.D. 2504, AN ACT Providing for Maine Motor Vehicle Reform, sponsored by Representative James E. Tierney, is based on L.D. 1882. There have been some substantive changes to this bill, primarily in the requirements as to the providers of coverage, discussed in the next section of this analysis, and a reduction in the level of benefits, from \$10,000 to \$5,000. There have also been a number of editorial changes, and motorcycles have been excluded from coverage in this bill as well as in L.D. 2475. The 80% cost/benefit ratio requirement and the provisions on additional factors in rate-making that were in L.D. 1802 have been deleted.

II Providers.

In L.D. 2475, the no-fault benefits are required to be part of every motor vehicle liability insurance policy, and therefore can be sold only by companies authorized to provide such coverage.

L.D. 1882, the predecessor to L.D. 2504, had allowed only health insurance carriers or non-profit hospital and medical service organizations, or combinations thereof, to provide the no-fault benefits package. Under L.D. 2504, in § 2955, such providers have only an option to provide what are called "primary health benefits", the health coverage for the named insured and his family. § 2955 (1) states that this coverage may be provided also by motor vehicle insurance companies, with the provision that it may be sold in combination with the health carriers or the non-profit organizations. § 2955 (3) provides that the other parts of the benefit package may be provided only by motor vehicle insurance companies, a substantial change from L.D. 1882.

III. Coordination of Coverage or Primacy.

This issue involves which coverage is primary under the bills in payment of medical expenses and wage loss, whether the loss is paid first through the no-fault benefits, with other health and accident and wage loss coverage paying for any loss exceeding these benefits or whether the loss is paid first through the other coverage, with the no-fault benefits making up for any differences, up to the limits of coverage.

L.D. 2475, in § 127, provides that social security, workmen's compensation, medicare and medicaid are primary over the no-fault benefits, on the theory that these are programs provided by law and the availability and level of benefits under these programs can easily be ascertained by the no-fault provider.

L.D. 2475 has no other provisions on primacy or required coordination

of benefits or required reduction of premiums because of coordination.

L.D. 2504, in § 2956, has provisions on both required and optional coordination of coverage. § 2956 (1) states that the requirement of coverage for primary health benefits may be fulfilled by coverage under existing health care insurance or contracts and by coverage under various types of statutory health care programs, including Medicare, Medicaid, V.A. and armed services benefits. The Superintendent of Insurance is required to certify which such programs, policies and contracts meet the standards of coverage.

§ 2956(2) states that providers cannot sell the primary health benefits coverage to persons who have health coverage under a certified statutory program. This is the required coordination of benefits and prohibits duplicate coverage for such persons. The coordination of benefits is optional, under 2959(2) for such persons who have certified coverage under existing health care insurance or contracts. Such persons can purchase duplicate coverage for health benefits.

§ 2956(3) provides an option for the disability benefits (or wage loss protection). Persons who are not employed because they are retired or disabled or are students are not required to purchase coverage for loss of wages they do not have, although they have the choice of such coverage if they want it.

L.D. 2504, in § 2959(1), has a provision similar to § 127 of L.D. 2475, that benefits payable to an injured person shall be reduced by the amount of Social Security, Workmen's Compensation, etc., that is paid.

This section would now apply primarily to persons other than the named insured and his family, such as pedestrians or passengers who are eligible for coverage.

IV Limitations of Tort Liability

L.D. 2475 adopts the threshold approach to limiting tort liability. As most frequently defined, this means eliminating litigation for non-economic loss or general damages (i.e., pain and suffering, inconvenience, and mental anguish) in all cases of injury in which there is less than a stated value of medical expenses incurred or in cases of non-serious injury, as defined.

Under § 128 of L.D. 2475, tort action may be brought only when medical expenses from an auto accident are \$500 or more (and when total losses are more than \$2,000, the maximum benefits paid under the bill), or only when the injured party has died or suffered permanent disability, disfigurement or loss of a significant body member or function.

L.D. 2504 does not employ such a threshold, but does have provisions which are intended to result in a decrease in the number of tort actions filed. It is expected that the prompt payment of medical expenses and wage losses on a first party basis will have this affect, since injured persons who receive these are not expected to be as ready to initiate actions for non-economic loss.

§ 2962 provides a limitation on attorney's fees. This section allows attorney's contingent fees to be paid only on that portion of the tort recovery

in excess of the amount of no-fault benefits furnished and does not allow any adjustment of the fee as to the remainder of a recovery to compensate for this. For example, if an injured party received no-fault benefits of \$5,000 and then \$10,000 in a tort action, his attorney could recover a contingent fee only on the excess over the \$5,000 and not on the full recovery, as the present law would allow.

§ 2963 of the bill also changes the present tort system by providing that evidence of no-fault benefits received must be presented to the court. This reverses the present system under which such evidence cannot be presented. § 2963 also provides that any recovery shall be reduced by the amount of no-fault benefits furnished. If these changes reduce average recoveries, this should reduce the number of tort actions filed.

V Subrogation or Reimbursement

Under § 129 of L.D. 2475, the insurer has a right of reimbursement out of any tort damages recovered by the injured person who is eligible to bring tort action because his damages exceed the threshold, but no right of subrogation to bring action in the name of the insured to recover the benefits paid to the insured.

In L.D. 2504, § 2964 states that subrogation and reimbursement rights are completely prohibited.

VI Insurance Requirements.

L.D. 2475, in § 122 and § 123, makes motor vehicle liability insurance, including the no-fault coverage, mandatory, and provides that failure to

maintain this coverage is a misdemeanor, with penalties of a fine of \$500, imprisonment for not more than 6 months, or both and suspension of the right to operate for a period of up to one year.

L.D. 2504, in § 2954 and § 2968, makes only the no-fault coverage mandatory, although § 2966 and § 2969 provide that no liability policy can be issued without the no-fault coverage or without checking that the insured has such coverage. § 2968 provides a penalty of a fine of up to \$100 for operating without the required security, and for a suspension of the right to operate for up to 3 months or until proof of the required coverage is filed. There is no provision for imprisonment.

VII Coverage.

L.D. 2475, in § 123, provides for a minimum amount of total coverage of \$2,000 to each person eligible and without limit as to the total number of recipients. It allows the coverage to be sold in multiples of \$2,000 up to a limit of \$10,000.

L.D. 2504, in § 2957, has a minimum amount of \$5,000 with similar provisions as to the recipients and without limit as to sale of higher coverage.

A. Medical, hospital and funeral expenses

L.D. 2475, in § 121(4)(A) provides for reasonable hospital and medical expenses, with a limitation to semi-private accommodations unless medically indicated otherwise, and funeral expenses to a limit of \$1,000, all subject to limits of the total coverage.

L.D. 2504 has two different provisions on these expenses, § 2957(1) on primary health benefits, for the insured and his family, which may be provided by any of the three types of providers, and § 2957(3) on "supplemental health benefits", for other eligible persons such as pedestrians or passengers, which may be provided only by motor vehicle insurance providers. The reason for the distinction is that, as previously noted, coverage for primary health benefits may be fulfilled by coverage under an existing health care contract or statutory program which would apply only to the insured and his family. Because of this limitation, coverage for other persons may be provided separately. The benefits furnished under either provision are similar to those in L.D. 2475, except for the benefit level of \$5,000. Dental care is included in the supplemental health benefits, but not the primary, since the contracts and policies and statutory programs which can fulfill the primary benefits do not ordinarily include dental care. There is no provision for funeral benefits.

B. Loss of wages

§ 121(4)(c) of L.D. 2475 covers 80% of lost wages, with a deduction for substitute work the injured person performs or could perform and with a provision for income tax savings in § 127(2). The only other limit is that on total coverage

L.D. 2504, in § 2957(2)(B), provides coverage for 75% of wage loss, not to exceed \$150 per week and only for 26 weeks (at which time Social Security coverage would begin in cases of total disability).

C. Expense for Necessary services.

L.D. 2475, in § 121(4)(c), covers 80% of the cost of reasonable extra expenses for personal services which would have been performed by the injured person for himself or his family if the accident had not occurred. This is subject to the limits of total coverage.

L.D. 2504, in § 2957(2)(B) covers 75% of such cost, not to exceed \$50 per week and only for 26 weeks.

D. Survivor's Loss.

L.D. 2475, in § 121(4)(B) covers loss of economic value that the next of kin would have received from the decedent, including services, subject to the limits of total coverage.

L.D. 2504, in § 2957(2)(B), provides \$5,000 in survivor benefits, less any amount already paid to the deceased as other benefits for the same accident.

VII Other Features of the Bills.

Both bills have substantially similar provisions for prompt and certain payment of benefits. These are to be paid semi-monthly as loss is incurred, and there is provision for payment of attorney's fees if action is necessary as a result of late payment. L.D. 2475 provides for 12% annual interest on late payments and L.D. 2504 for 24%.

L.D. 2475 has provisions for an assigned claims plan and for medical

examination of injured persons which are not in L.D. 2504.

L.D. 2504 has a new provision, § 2970, regarding possible premium reductions as a result of the energy crisis. The Superintendent of Insurance is required to hold hearings to determine if reductions are necessary. If so, they are to be retroactive to November 28, 1973.