

SENATE, No. 1365

STATE OF NEW JERSEY

INTRODUCED JUNE 24, 1996

By Senators CARINALE, MARTIN and Kyrillos

1 AN ACT concerning automobile insurance and revising parts of the  
2 statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. (New section) a. This act shall be known and may be cited as  
8 the "Automobile Insurance Rate Reduction Act of 1996."

9 b. This act eliminates lawsuits for noneconomic loss and economic  
10 loss for bodily injury or death resulting from automobile accidents;  
11 requires the offering of coverage for the automatic and immediate  
12 payment of benefits for noneconomic loss and economic loss for bodily  
13 injury and death; and reduces automobile insurance rates by 30%.

14

15 2. (New section) The Legislature finds and declares:

16 a. The cost of automobile insurance in this State has escalated  
17 since the institution of a modified no-fault system more than two  
18 decades ago; and

19 b. Under the tort system, recovery of a claim may take several  
20 years, and is diminished by the fact that attorneys' fees and court costs  
21 reduce the award by as much as one-third. At the same time, the legal  
22 defense and administrative costs of insurers also adds to the cost of  
23 automobile insurance. The rationale for the establishment of a  
24 traditional no-fault system is that it provides payment of benefits for  
25 medical expenses and wage loss to injured persons in a timely manner,  
26 without regard to fault and without the high transaction costs which  
27 characterize the tort system; and

28 c. Under a no-fault system, the cost of providing the first party  
29 benefits are intended to be offset by a limitation on the right to sue for  
30 noneconomic loss, or pain and suffering; nevertheless, in New Jersey,  
31 the cost-effectiveness of the payment of first party benefits under  
32 personal injury protection coverage is diminished by the relatively high  
33 volume of suits for noneconomic loss which remains in the system,  
34 making insurers' defense costs high and having an adverse impact

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 upon premiums; and

2 d. This legislation seeks, therefore, to reduce the cost of providing  
3 benefits for noneconomic loss and the cost of economic loss for bodily  
4 injury or death by eliminating the expensive attorney fees and court  
5 costs now paid by both the insurer and the injured person by  
6 establishing first-party benefits for noneconomic loss and economic  
7 loss for bodily injury or death, payable in the same manner as personal  
8 injury protection medical expense and wage loss benefits are now paid,  
9 by the insurer to its own insured, in a timely manner and in accordance  
10 with a schedule selected by the insured and similar to that employed  
11 in workers' compensation coverage; and

12 e. The advantages to this method of paying claims for noneconomic  
13 loss and economic loss for bodily injury and death is that the insured  
14 not only receives the benefits for noneconomic loss and economic loss  
15 for bodily injury and death due to him without a long wait, but is also  
16 assured that the amount available to him is adequate for the nature of  
17 his injuries, unlike the present system, in which an injured person must  
18 be dependent upon coverage purchased by another party, which may  
19 not be adequate; and

20 f. Therefore, the purpose of this legislation is to establish a true no-  
21 fault system, in which every person collects full benefits from his own  
22 insurer in a timely manner and without regard to fault, and to provide  
23 a 30% premium reduction, reflecting the savings which will accrue to  
24 the system and to all policyholders in the State, which will make  
25 automobile insurance more affordable to all.

26

27 3. Section 8 of P.L. 1972, c. 70 (C. 39:6A-8) is amended to read  
28 as follows:

29 8. Tort exemption; limitation on the right to economic loss and  
30 noneconomic loss.

31 [One of the following two tort options shall be elected, in  
32 accordance with section 14.1 of P.L.1983, c.362 (C.39:6A-8.1), by  
33 any named insured required to maintain personal injury protection  
34 coverage pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4):

35 a.] Every owner, registrant, operator or occupant of an automobile  
36 to which section 4 of P.L.1972, c.70 (C.39:6A-4), personal injury  
37 protection coverage, regardless of fault, applies, and every person or  
38 organization legally responsible for his acts or omissions, is hereby  
39 exempted from tort liability for economic loss for bodily injury or  
40 death and noneconomic loss to a person [who is subject to this  
41 subsection and] who is either a person who is required to maintain the  
42 coverage mandated by this act, or is a person who has a right to  
43 receive benefits under section 4 of P.L.1972, c.70 (C.39:6A-4), as a  
44 result of bodily injury, arising out of the ownership, operation,  
45 maintenance or use of such automobile in this State [, unless that  
46 person has sustained a personal injury which results in death;

1 dismemberment; significant disfigurement; a fracture; loss of a fetus;  
2 permanent loss of use of a body organ, member, function or system;  
3 permanent consequential limitation of use of a body organ or member;  
4 significant limitation of use of a body function or system; or a  
5 medically determined injury or impairment of a non-permanent nature  
6 which prevents the injured person from performing substantially all of  
7 the material acts which constitute that person's usual and customary  
8 daily activities for not less than 90 days during the 180 days  
9 immediately following the occurrence of the injury or impairment; or

10 b. As an alternative to the basic tort option specified in subsection  
11 a. of this section, every owner, registrant, operator, or occupant of an  
12 automobile to which section 4 of P.L.1972, c.70 (C.39:6A-4) applies,  
13 and every person or organization legally responsible for his acts or  
14 omissions, shall be liable for noneconomic loss to a person who is  
15 subject to this subsection and who is either a person who is required  
16 to maintain the coverage mandated by P.L.1972, c.70 (C.39:6A-1 et  
17 seq.) or is a person who has a right to receive benefits under section  
18 4 of that act (C.39:6A-4), as a result of bodily injury, arising out of the  
19 ownership, operation, maintenance or use of such automobile in this  
20 State.

21 The tort option provisions of subsection b. of this section shall also  
22 apply to the right to recover for noneconomic loss of any person  
23 eligible for benefits pursuant to section 4 of P.L.1972, c.70  
24 (C.39:6A-4) but who is not required to maintain personal injury  
25 protection coverage and is not an immediate family member, as defined  
26 in section 14.1 of P.L.1983, c.362 (C.39:6A-8.1), under an automobile  
27 insurance policy.

28 The tort option provisions of subsection a. of this section shall also  
29 apply to any person subject to section 14 of P.L.1985, c.520  
30 (C.39:6A-4.5).

31  
32 The tort option provisions of subsections a. and b. of this section  
33 as provided in this 1988 amendatory and supplementary act shall apply  
34 to automobile insurance policies issued or renewed on or after January  
35 1, 1989 and as otherwise provided by law].

36 (cf: P.L.1990, c.8, s.9)

37  
38 4. Section 10 of P.L. 1972, c. 70 (C. 39:6A-10) is amended to read  
39 as follows:

40 10. Additional personal injury protection coverage. Insurers shall  
41 make available to the named insured covered under section 4 of  
42 P.L.1972, c.70 (C.39:6A-4), and, at his option, to resident relatives in  
43 the household of the named insured, suitable additional first party  
44 coverage for income continuation benefits, essential services benefits,  
45 death benefits and funeral expense benefits, but the income  
46 continuation and essential services benefits shall cease upon the death

1 of the claimant, and shall not operate to increase the amount of any  
2 death benefits payable under section 4 of P.L.1972, c.70 (C.39:6A-4)  
3 and such additional first party coverage shall be payable only to the  
4 extent that the claimant establishes that the amount of loss sustained  
5 exceeds the coverage specified in section 4 of P.L.1972, c.70  
6 (C.39:6A-4). Insurers [may] shall also make available to named  
7 insureds covered under section 4 of P.L.1972, c.70 (C.39:6A-4), and,  
8 at their option, to resident relatives in the household of the named  
9 insured or to other persons provided medical expense coverage  
10 pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4), or both,  
11 additional first party medical expense benefit coverage of up to  
12 \$1,000,000 per person per accident. The additional medical expense  
13 benefits coverage required to be offered by insurers pursuant to this  
14 section shall be offered in increments determined by the commissioner.  
15 The additional coverage shall be offered by the insurer at least annually  
16 as part of the coverage selection form required by section 17 of  
17 P.L.1983, c.362 (C.39:6A-23). Income continuation in excess of that  
18 provided for in section 4 of P.L.1972, c.70 (C. 39:6A-4) must be  
19 provided as an option by insurers for disabilities, as long as the  
20 disability persists, up to an income level of \$35,000.00 per year,  
21 provided that a. the excess between \$5,200.00 and the amount of  
22 coverage contracted for shall be written on the basis of 75% of said  
23 difference, and b. regardless of the duration of the disability, the  
24 benefits payable shall not exceed the total maximum amount of income  
25 continuation benefits contracted for. Death benefits provided pursuant  
26 to this section shall be payable without regard to the period of time  
27 elapsing between the date of the accident and the date of death, if  
28 death occurs within two years of the accident and results from bodily  
29 injury from that accident to which coverage under this section applies.  
30 The Commissioner of Insurance is hereby authorized and empowered  
31 to establish, by rule or regulation, the amounts and terms of income  
32 continuation insurance to be provided pursuant to this section.  
33 (cf: P.L.1990, c.8, s.11)

34  
35 5. (New section) a. Insurers shall offer to named insureds  
36 combined coverage for economic loss for bodily injury and death and  
37 noneconomic loss in a range of limits from \$15,000 to at least  
38 \$1,000,000. The combined coverage for economic loss for bodily  
39 injury and death and noneconomic loss shall provide protection,  
40 without regard to negligence, liability or fault of any kind, to the  
41 named insured and members of his family residing in his household  
42 who sustain bodily injury as the result of an accident while occupying,  
43 entering into, alighting from or using an automobile or as a pedestrian,  
44 caused by an automobile or by an object propelled by or from an  
45 automobile, to other persons sustaining bodily injury while occupying,  
46 entering into, alighting from or using the automobile of the named

1 insured, with the permission of the named insured, and to pedestrians,  
2 sustaining bodily injury caused by the named insured's automobile or  
3 struck by an object propelled by or from such automobile. Insurers  
4 shall offer this combined coverage for economic loss for bodily injury  
5 and death and noneconomic loss to the named insured in accordance  
6 with a schedule established by the commissioner pursuant to  
7 subsection b. of this section.

8 b. (1) The commissioner shall, no later than 90 days after the  
9 enactment date of this act, designate an insurer or insurers to conduct  
10 a closed claim study of claims for economic loss for bodily injury and  
11 death and noneconomic loss in automobile accidents for the twelve  
12 preceding months. Claims used in the study shall reasonably reflect  
13 geographic, demographic, and economic conditions throughout the  
14 State. From the study, the commissioner shall determine the types of  
15 bodily injury most commonly incurred in automobile accidents to  
16 which this combined coverage applies and shall establish: (a) an  
17 average claims payment for each type of injury for noneconomic loss  
18 and (b) an average claims payment for each type of injury for  
19 economic loss associated with that injury. The sum of the average  
20 noneconomic and economic loss costs for each type of injury shall  
21 constitute the basic award.

22 (2) The commissioner shall, by regulation, establish a schedule of  
23 injuries most commonly sustained in automobile accidents to which  
24 this combined coverage applies. The scheduled amount, less one third,  
25 shall constitute the basic benefit available pursuant to the combined  
26 coverage. Multiple injuries shall be reimbursed in accordance with a  
27 formula established by the commissioner by regulation, which formula  
28 may provide for less than the full scheduled reimbursement for any  
29 secondary injury.

30 (3) At the option of the named insured, and upon payment of the  
31 appropriate premium, the schedule established pursuant to paragraph  
32 (2) of this subsection b. may be subject to enhanced reimbursement  
33 levels. Every insurer shall file with the commissioner rating factors  
34 which, when applied to the scheduled amount, shall provide for an  
35 enhanced reimbursement level for each scheduled injury in increments  
36 up to at least three times the scheduled amount.

37 (4) The scheduled amounts shall, at least annually, be subject to a  
38 percentage increase established by the commissioner by regulation,  
39 which shall be established taking into consideration any increase in the  
40 consumer price index for all urban consumers in the New York City  
41 and Philadelphia areas as reported by the United States Department of  
42 Labor, awards to plaintiffs in other types of tort actions in this State,  
43 and other factors as the commissioner deems relevant.

44 c. Combined coverage provided pursuant to this section shall not  
45 be increased by stacking the limits of coverage of multiple automobiles  
46 covered under the same policy of insurance and those coverages shall

1 not be increased by stacking the limits of coverage of multiple policies  
2 available to the insured. If the insured has coverage available under  
3 more than one policy, then recovery shall be under only the coverage  
4 of one policy of the insured's choosing which is applicable to the  
5 insured, unless the automobile occupied by the insured is a vehicle  
6 owned by the insured, spouse or resident relative of the insured's  
7 household, in which case only the coverages and limits on the policy  
8 insuring that vehicle shall apply.

9 d. The coverage provided pursuant to this section shall be subject  
10 to the policy terms, limitations, conditions and exclusions approved by  
11 the commissioner.

12

13 6. (New section) a. An insurer may require written notice to be  
14 given as soon as practicable after an accident involving an automobile  
15 with respect to which the policy affords combined coverage pursuant  
16 to 5 of P.L. , c. (C. )(pending before the Legislature as this  
17 bill).

18 b. Benefits for the combined coverage shall be overdue if not paid  
19 within 60 days after the insurer is furnished written notice of the fact  
20 of a covered loss and of the amount of same. The payment shall not  
21 be deemed overdue if, within 60 days of receipt of notice of the claim,  
22 the insurer notifies the claimant or his representative in writing of the  
23 denial of the claim or the need for additional time, not to exceed 45  
24 days, to investigate the claim, and states the reasons therefor. The  
25 written notice stating the need for additional time to investigate the  
26 claim shall set forth the number of the insurance policy against which  
27 the claim is made, the claim number, the address of the office handling  
28 the claim and a telephone number, which is toll free or can be called  
29 collect, or is within the claimant's area code. For the purpose of  
30 determining interest charges in the event the injured party prevails in  
31 a subsequent proceeding where an insurer has elected a 45-day  
32 extension pursuant to this subsection, payment shall be considered  
33 overdue at the expiration of the 45-day period or, if the injured person  
34 was required to provide additional information to the insurer, within  
35 10 business days following receipt by the insurer of all the information  
36 requested by it, whichever is later.

37 For the purpose of calculating the extent to which any benefits are  
38 overdue, payment shall be treated as being made on the date a draft or  
39 other valid instrument which is equivalent to payment was placed in  
40 the United States mail in a properly addressed, postpaid envelope, or,  
41 if not so posted, on the date of delivery.

42 c. All overdue payments shall bear interest at the percentage of  
43 interest prescribed in the Rules Governing the Courts of the State of  
44 New Jersey for judgments, awards and orders for the payment of  
45 money. All automobile insurers shall provide any claimant with the  
46 option of submitting a dispute under this section to binding arbitration.

1 Arbitration proceedings shall be administered and subject to  
2 procedures established by the American Arbitration Association. If the  
3 claimant prevails in the arbitration proceedings, the insurer shall pay  
4 all the costs of the proceedings, including reasonable attorney's fees,  
5 to be determined in accordance with a schedule of hourly rates for  
6 services performed, to be prescribed by the Supreme Court of New  
7 Jersey.

8  
9 7. (New section) The Commissioner of Insurance shall have the  
10 authority to dissolve the New Jersey Automobile Insurance Risk  
11 Exchange established by section 15 of P.L.1983, c.362 (C.39:6A-21),  
12 when he believes that its continuing operation is no longer necessary.  
13 The commissioner shall notify the Legislature when he believes that its  
14 continuing operation is no longer necessary. The commissioner may  
15 promulgate rules and regulations to facilitate the termination of its  
16 activities.

17  
18 8. Section 10 of P.L.1952, c.174 (C.39:6-70) is amended to read  
19 as follows:

20 10. Hearing on application for payment of judgment. The court  
21 shall proceed upon such application, in a summary manner, and, upon  
22 the hearing thereof, the applicant shall be required to show:

23 (a) He is not a person covered with respect to such injury or death  
24 by any workers' compensation law, or the personal representative of  
25 such a person,

26 (b) He is not a spouse, parent or child of the judgment debtor, or  
27 the personal representative of such spouse, parent or child,

28 (c) He was not at the time of the accident a person (1) operating  
29 or riding in a motor vehicle which he had stolen or participated in  
30 stealing or (2) operating or riding in a motor vehicle without the  
31 permission of the owner, and is not the personal representative of such  
32 a person,

33 (d) He was not at the time of the accident, the owner or registrant  
34 of an uninsured motor vehicle, or was not operating a motor vehicle  
35 in violation of an order of suspension or revocation,

36 (e) He has complied with all of the requirements of section 5,

37 (f) The judgment debtor at the time of the accident was not insured  
38 under a policy of automobile liability insurance under the terms of  
39 which the insurer is liable to pay in whole or in part the amount of the  
40 judgment,

41 (g) He has obtained a judgment as set out in section 9 of this act,  
42 stating the amount thereof and the amount owing thereon at the date  
43 of the application,

44 (h) He has caused to be issued a writ of execution upon said  
45 judgment and the sheriff or officer executing the same has made a  
46 return showing that no personal or real property of the judgment

1 debtor, liable to be levied upon in satisfaction of the judgment, could  
2 be found or that the amount realized on the sale of them or of such of  
3 them as were found, under said execution, was insufficient to satisfy  
4 the judgment, stating the amount so realized and the balance remaining  
5 due on the judgment after application thereon of the amount realized,

6 (i) He has caused the judgment debtor to make discovery under  
7 oath, pursuant to law, concerning his personal property and as to  
8 whether such judgment debtor was at the time of the accident insured  
9 under any policy or policies of insurance described in subsection (f) of  
10 this section,

11 (j) He has made all reasonable searches and inquiries to ascertain  
12 whether the judgment debtor is possessed of personal or real property  
13 or other assets, liable to be sold or applied in satisfaction of the  
14 judgment,

15 (k) By such search he has discovered no personal or real property  
16 or other assets, liable to be sold or applied or that he has discovered  
17 certain of them, describing them, owned by the judgment debtor and  
18 liable to be so sold and applied and that he has taken all necessary  
19 action and proceedings for the realization thereof and that the amount  
20 thereby realized was insufficient to satisfy the judgment, stating the  
21 amount so realized and the balance remaining due on the judgment  
22 after application of the amount realized,

23 (l) The application is not made by or on behalf of any insurer by  
24 reason of the existence of a policy of insurance, whereby the insurer  
25 is liable to pay, in whole or in part, the amount of the judgment and  
26 that no part of the amount to be paid out of the fund is sought in lieu  
27 of making a claim or receiving a payment which is payable by reason  
28 of the existence of such a policy of insurance and that no part of the  
29 amount so sought will be paid to an insurer to reimburse or otherwise  
30 indemnify the insurer in respect of any amount paid or payable by the  
31 insurer by reason of the existence of such a policy of insurance,

32 (m) Whether or not he has recovered a judgment in an action  
33 against any other person against whom he has a cause of action in  
34 respect of his damages for bodily injury or death or damage to  
35 property arising out of the accident and what amounts, if any, he has  
36 received by way of payments upon the judgment, or by way of  
37 settlement of such cause of action, in whole or in part, from or on  
38 behalf of such other person,

39 (n) [In order to recover for noneconomic loss, as defined in section  
40 2 of P.L.1972, c.70 (C.39:6A-2) for] For accidents to which the  
41 benefits of sections 7 and 10 of P.L.1972, c.198 (C.39:6-86.1 and  
42 C.39:6-86.4) apply, the injured person shall not have [sustained an  
43 injury described in subsection a. of section 8 of P.L.1972, c.70  
44 (C.39:6A-8)] the right to recover for noneconomic loss, as defined in  
45 section 2 of P.L.1972, c.70 (C.39:6A-2), or economic loss for bodily  
46 injury or death which exceeds the schedule established pursuant to

1 section 5 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the Legislature  
2 as this bill) and the limits established by P.L.1952, c.74 (C.39:6-61 et  
3 seq.).

4 Whenever the applicant satisfies the court that it is not possible to  
5 comply with one or more of the requirements enumerated in  
6 subsections (h) and (i) of this section and that the applicant has taken  
7 all reasonable steps to collect the amount of the judgment or the  
8 unsatisfied part thereof and has been unable to collect the same, the  
9 court may dispense with the necessity for complying with such  
10 requirements.

11 The board or any insurer to which the action has been assigned may  
12 appear and be heard on application and show cause why the order  
13 should not be made.

14 (cf: P.L.1988, c.119, s.19)

15

16 9. Section 2 of P.L.1968, c.385 (C.17:28-1.1) is amended to read  
17 as follows:

18 2. a. No motor vehicle liability policy or renewal of such policy of  
19 insurance, including a liability policy for an automobile as defined in  
20 section 2 of P.L.1972, c.70 (C.39:6A-2), insuring against loss resulting  
21 from liability imposed by law for bodily injury or death, sustained by  
22 any person arising out of the ownership, operation, maintenance or use  
23 of a motor vehicle, shall be issued in this State with respect to any  
24 motor vehicle registered or principally garaged in this State unless it  
25 includes coverage in limits for bodily injury or death as follows:

26 (1) an amount or limit of \$15,000.00, exclusive of interest and  
27 costs, on account of injury to, or death of, one person, in any one  
28 accident, and

29 (2) an amount or limit, subject to such limit for any one person so  
30 injured or killed, of \$30,000.00, exclusive of interest and costs, on  
31 account of injury to or death of more than one person, in any one  
32 accident,

33 under provisions approved by the Commissioner of Insurance, for  
34 payment of all or part of the sums which the insured or his legal  
35 representative shall be legally entitled to recover as damages from the  
36 operator or owner of an uninsured motor vehicle, or hit and run motor  
37 vehicle, as defined in section 18 of P.L.1952, c.174 (C.39:6-78),  
38 because of bodily injury, sickness or disease, including death resulting  
39 therefrom, sustained by the insured, caused by accident and arising out  
40 of the ownership, maintenance or use of such uninsured or hit and run  
41 motor vehicle anywhere within the United States or Canada [; except  
42 that uninsured motorist coverage shall provide that in order to recover  
43 for non-economic loss, as defined in section 2 of P.L.1972, c.70  
44 (C.39:6A-2), for accidents to which the benefits of section 4  
45 (C.39:6A-4) of that act apply, the tort option elected pursuant to  
46 section 8 (C.39:6A-8) of that act shall apply to that injured person].

1 All motor vehicle liability policies shall also include coverage for  
2 the payment of all or part of the sums which persons insured  
3 thereunder shall be legally entitled to recover as damages from owners  
4 or operators of uninsured motor vehicles, other than hit and run motor  
5 vehicles, because of injury to or destruction to the personal property  
6 of such insured, with a limit in the aggregate for all insureds involved  
7 in any one accident of \$5,000.00, and subject, for each insured, to an  
8 exclusion of the first \$500.00 of such damages.

9 b. Uninsured and underinsured motorist coverage shall be provided  
10 as an option by an insurer to the named insured up to at least the  
11 following limits: \$250,000.00 each person and \$500,000.00 each  
12 accident for bodily injury; \$100,000.00 each accident for property  
13 damage or \$500,000.00 single limit, subject to an exclusion of the first  
14 \$500.00 of such damage to property for each accident, except that the  
15 limits for uninsured and underinsured motorist coverage shall not  
16 exceed the insured's motor vehicle liability policy limits for bodily  
17 injury and property damage, respectively.

18 Rates for uninsured and underinsured motorist coverage for the  
19 same limits shall, for each filer, be uniform on a Statewide basis  
20 without regard to classification or territory.

21 c. Uninsured and underinsured motorist coverage provided for in  
22 this section shall not be increased by stacking the limits of coverage of  
23 multiple motor vehicles covered under the same policy of insurance  
24 nor shall these coverages be increased by stacking the limits of  
25 coverage of multiple policies available to the insured. If the insured  
26 had uninsured motorist coverage available under more than one policy,  
27 any recovery shall not exceed the higher of the applicable limits of the  
28 respective coverages and the recovery shall be prorated between the  
29 applicable coverages as the limits of each coverage bear to the total of  
30 the limits.

31 d. Uninsured and underinsured motorist coverage shall be subject  
32 to the policy terms, conditions and exclusions approved by the  
33 Commissioner of Insurance, including, but not limited to, unauthorized  
34 settlements, nonduplication of coverage, subrogation and arbitration.

35 e. For the purpose of this section, (1) "underinsured motorist  
36 coverage" means insurance for damages because of bodily injury and  
37 property damage resulting from an accident arising out of the  
38 ownership, maintenance or use of an underinsured motor vehicle.  
39 Underinsured motorist coverage shall not apply to an uninsured motor  
40 vehicle. A motor vehicle is underinsured when the sum of the limits  
41 of liability under all bodily injury and property damage liability bonds  
42 and insurance policies available to a person against whom recovery is  
43 sought for bodily injury or property damage is, at the time of the  
44 accident, less than the applicable limits for underinsured motorist  
45 coverage afforded under the motor vehicle insurance policy held by the  
46 person seeking that recovery. A motor vehicle shall not be considered

1 an underinsured motor vehicle under this section unless the limits of  
2 all bodily injury liability insurance or bonds applicable at the time of  
3 the accident have been exhausted by payment of settlements or  
4 judgments. The limits of underinsured motorist coverage available to  
5 an injured person shall be reduced by the amount he has recovered  
6 under all bodily injury liability insurance or bonds;

7 (2) "uninsured motor vehicle" means:

8 (a) a motor vehicle with respect to the ownership, operation,  
9 maintenance, or use of which there is no bodily injury liability  
10 insurance or bond applicable at the time of the accident;

11 (b) a motor vehicle with respect to the ownership, operation,  
12 maintenance, or use of which there is bodily injury liability insurance  
13 in existence but the liability insurer denies coverage or is unable to  
14 make payment with respect to the legal liability of its insured because  
15 the insurer has become insolvent or bankrupt, or the Commissioner of  
16 Insurance has undertaken control of the insurer for the purpose of  
17 liquidation; or

18 (c) a hit and run motor vehicle as described in section 18 of  
19 P.L.1952, c.174 (C.39:6-78).

20 "Uninsured motor vehicle" shall not include an underinsured motor  
21 vehicle; a motor vehicle owned by or furnished for the regular use of  
22 the named insured or any resident of the same household; a self-insurer  
23 within the meaning of any financial responsibility or similar law of the  
24 state in which the motor vehicle is registered or principally garaged;  
25 a motor vehicle which is owned by the United States or Canada, or a  
26 state, political subdivision or agency of those governments or any of  
27 the foregoing; a land motor vehicle or trailer operated on rails or  
28 crawler treads; a motor vehicle used as a residence or stationary  
29 structure and not as a vehicle; or equipment or vehicles designed for  
30 use principally off public roads, except while actually upon public  
31 roads.

32 (cf: P.L.1988, c.119, s.11)

33

34 10. Section 18 of P.L.1985, c.520 (C.17:28-1.4) is amended to  
35 read as follows:

36 18. Any insurer authorized to transact or transacting automobile or  
37 motor vehicle insurance business in this State, or controlling or  
38 controlled by, or under common control by, or with, an insurer  
39 authorized to transact or transacting insurance business in this State,  
40 which sells a policy providing automobile or motor vehicle liability  
41 insurance coverage, or any similar coverage, in any other state or in  
42 any province of Canada, shall include in each policy coverage to  
43 satisfy at least the scheduled coverage for noneconomic loss and  
44 economic loss for bodily injury or death pursuant to section 5  
45 of P.L. , c. (C. ) (pending before the Legislature as this bill)  
46 in the amount or limit of \$15,000 per person per accident, the liability

1 insurance requirements of section 1 of P.L.1972, c.197 (C.39:6B-1)  
2 or section 3 of P.L.1972, c.70 (C.39:6A-3), the uninsured motorist  
3 insurance requirements of subsection a. of section 2 of P.L.1968,  
4 c.385 (C.17:28-1.1), and personal injury protection benefits coverage  
5 pursuant to section 4 of P.L.1972, c.70 (C.39:6A-4) or of section 19  
6 of P.L.1983, c.362 (C.17:28-1.3), whenever the automobile or motor  
7 vehicle insured under the policy is used or operated in this State.

8 Any liability insurance policy subject to this section shall be  
9 construed as providing the coverage required herein [, and any named  
10 insured, and any immediate family member as defined in section 14.1  
11 of P.L.1983, c.362 (C.39:6A-8.1), under that policy, shall be subject  
12 to the tort option specified in subsection a. of section 8 of P.L.1972,  
13 c.70 (C.39:6A-8)].

14 Each insurer authorized to transact or transacting automobile or  
15 motor vehicle insurance business in this State and subject to the  
16 provisions of this section shall, within 30 days of the effective date of  
17 P.L. 1985, c. 520, file and maintain with the Department of Insurance  
18 written certification of compliance with the provisions of this section.

19 "Automobile" means an automobile as defined in section 2 of  
20 P.L.1972, c.70 (C.39:6A-2).

21 (cf: P.L.1988, c.119, s.1)

22

23 11. Section 18 of P.L.1983, c.362 (C.17:29A-15.1) is amended to  
24 read as follows:

25 18. Premium credits shall be provided for each deductible and  
26 exclusion on personal injury protection coverage offered in accordance  
27 with section 13 of P.L.1983, c.362 (C.39:6A-4.3)[, and for the tort  
28 limitation options on bodily injury liability coverage offered in  
29 accordance with section 8 of P.L.1972, c.70 (C.39:6A-8)]. All  
30 premium credits to which this section applies shall be calculated and  
31 represented to the insured as a percentage of the applicable premium  
32 for each coverage option, and the percentage for each coverage option  
33 shall be uniform by filer on a Statewide basis.

34 The premium charged for each coverage shall be clearly set forth in  
35 any policy or endorsement provided the insured.

36 The percentage rate of commission or rate of other compensation  
37 payable by an automobile insurer to a producer shall not vary by  
38 reason of the selection or nonselection of any option provided in  
39 section 13 of P.L.1983, c.362 (C.39:6A-4.3) [and section 8 of  
40 P.L.1972, c.70 (C.39:6A-8)].

41 (cf: P.L.1988, c.119, s.24)

42

43 12. (New section) a. For automobile insurance policies in force  
44 on January 1, 1998, the policyholders shall be credited with a pro rata  
45 reduction reflecting any reduction in claim exposure due to the  
46 exemption from tort recoveries for economic loss for bodily injury or

1 death and noneconomic loss pursuant to section 8 of P.L.1972, c.70  
2 (C.39:6A-8).

3 b. Insurers shall deliver or send a coverage selection form which  
4 includes the new options and coverages provided by P.L. , c.  
5 (C. ) (now before the Legislature as this bill) to their  
6 policyholders on or before November 1, 1997 and to new applicants  
7 for automobile insurance.

8 c. Automobile insurance rates shall be reduced by 30 percent  
9 effective on January 1, 1998. Automobile insurers shall file their  
10 automobile insurance rates in compliance with this subsection on or  
11 before November 1, 1997 to be effective January 1, 1998.

12  
13 13. Section 14 of P.L.1988, c.156 (C.17:29A-15.2), section 14 of  
14 P.L.1985, c.520 (C.39:6A-4.5), section 14.1 of P.L.1983, c.362  
15 (C.39:6A-8.1) and section 12 of P.L.1972, c.70 (C.39:6A-12) are  
16 repealed.

17  
18 14. This act shall take effect on January 1, 1998, except that  
19 subsection b. of section 5 and section 12 shall take effect immediately  
20 and the Commissioner of Insurance may promulgate regulations to  
21 implement the provisions of this act at any time.

22  
23

#### 24 STATEMENT

25

26 This bill establishes true no-fault insurance in this State for the first  
27 time. The bill eliminates lawsuits for noneconomic loss ("pain and  
28 suffering") and economic loss for bodily injury and death in regard to  
29 automobile accidents. When a person who is covered by personal  
30 injury protection coverage is injured by a person with that same  
31 coverage, the injured person is prohibited from suing for noneconomic  
32 loss or economic loss for bodily injury or death. The bill requires  
33 insurers to offer a first-party combined coverage for noneconomic loss  
34 and economic loss for bodily injury or death in a range of limits from  
35 \$15,000 to \$1,000,000. After conducting a closed claim study, the  
36 Commissioner of Insurance shall establish a schedule of injuries for  
37 combined coverage containing the basic benefit for each injury. This  
38 schedule shall be available at enhanced reimbursement levels up to  
39 three times the scheduled amount and the schedule shall be adjusted  
40 for inflation.

41 The bill requires insurers to offer at least \$1,000,000 personal  
42 injury protection medical expense benefits coverage in increments  
43 determined by the Commissioner of Insurance; mandates a 30 percent  
44 rate reduction; makes modifications in other sections of law to  
45 correspond to the major modifications provided by the bill; and phases  
46 out the New Jersey Automobile Insurance Risk Exchange and repeals

1 certain sections of the law because the exchange and the sections are  
2 no longer applicable after the elimination of the dual tort thresholds  
3 for automobile insurance.

4 The provisions of the bill take effect on January 1, 1998.

5

6

7

8

9 Eliminates suits for noneconomic loss and economic loss for bodily  
10 injury and death in auto accidents; requires insurers to offer scheduled  
11 first-party coverage for those losses; reduces rates 30%.