Testimony by Commissioner Tom Considine
New Jersey Department of Banking and Insurance

SENATE BUDGET AND APPROPRIATIONS COMMITTEE
April 20, 2010

ASSEMBLY BUDGET COMMITTEE
April 28, 2010

Good morning/afternoon, Chairman Sarlo/Chairman Greenwald and committee members.

I. Introduction and Courtesies

Before I begin, I would like to introduce members of the Department staff who are here with me today:

- Douglas Wheeler, Director of Insurance
- Terry McEwen, Director of Banking
- Tom Gallagher, Chief Financial Officer

I am pleased to be here today as the Commissioner of the Department of Banking and Insurance.

I started as commissioner in February, and since some of you may not know me, let me begin by telling you a little about myself.
I am a third-generation, lifelong New Jersey resident, born and raised in Bayonne and a resident of Monmouth County for the last 15 years.

I earned both my undergraduate and law degrees from Seton Hall.

I have spent my career working on insurance and banking issues. I was a vice president in MetLife legal affairs when Governor Christie selected me to serve as commissioner. I was with MetLife for 17 years. Within the MetLife corporate structure is the MetLife Bank which has over $10 billion in deposits and approximately 4,200 employees. Prior to that, I was in private practice with an emphasis on insurance law.

I served as a member of the Governor’s Transition Team on Banking and Insurance.

From my work on the Transition team and my nearly three months as commissioner, my initial take on the department is that it is an agency with a dedicated, highly competent and professional staff.

II—Mission of the Department: Commissioner’s approach

As you know, the mission of the Department is to regulate the banking, insurance and real estate industries in a manner that protects and educates consumers and promotes
the growth, financial stability, and efficiency of those industries.

To give you an idea of the scope of what we do, the Department licenses and regulates:
- more than 266,758 banking, insurance and real estate licensees
- the conduct of more than 1,100 insurance companies and
- 107 state chartered banks and financial institutions.

As I mentioned, the Department’s mission boils down to two core elements: consumer protection and promoting the growth, stability and efficiency of the banking, insurance and real estate industries.

The problem is that too often the latter element has not made it to the Department’s consciousness.

DOBI is second to none at protecting consumers. But I think we need some work on the other side of the equation.

My goal is to lead the staff in a way that its efficacy at promoting business growth matches that of its abilities to protect consumers.

**III—Priorities**

That brings me to one of my top priorities – delivering Governor Christie’s message of economic growth to the business community.
I did exactly that last Monday (April 12) when I attended a ribbon-cutting for ACE Insurance Co.’s new offices in Jersey City. The insurer is bringing more than 130 new jobs to the state. Clearly this is a good thing. And I hope this is the first of many of these kinds of events that I will be attending.

I share the Governor’s belief that it is time we let the region and the world know that New Jersey is open for business and that New Jersey can and should be an economic powerhouse.

On the regulatory side, regulation should not be about command and control. It should be about being flexible and working with business as much as possible. I’ve told the staff repeatedly over the last three months “Don’t just reject something if it doesn’t comply, but ask, ‘Have you considered doing it this way?’ ”

When regulators over regulate, businesses leave the state, competition disappears and the consumer is stuck with high prices and few choices.

When regulators use their authority to sustain a robust, stable, competitive market, it benefits everyone.

Striking the proper balance is critical. To that end, we must regulate with prudence and caution. Sometimes we have to be tough and I can assure you absolutely that we will be. But sometimes we have to be more flexible.
I believe this is the approach that brought about the successful auto insurance reforms of 2003.

Those reforms have brought 21 new carriers to the state in the last seven years. Those new insurers, with billions of dollars in new capital, in turn, have created a competitive market where insurers compete for business.

Another top priority is to contain the costs of health insurance.

As we all know, federal healthcare reform legislation has been enacted. We are looking at how it will affect New Jersey. Many of the provisions of the new law incorporate or are variations of requirements that have long existed in the New Jersey individual and small employer markets.

In New Jersey, DOBI regulates only about 30 percent of the market – the individual and the small employer plans. The other 70 percent is self funded or federally regulated.

Last year in the Individual Market, the rates for about 40 percent of policyholders went up by 10 to 15 percent; rates for 20 percent of policyholders increased in single digits and 40 percent of the policyholders saw rate decreases.

But in the small employer plan, rates jumped between 20 and 30 percent. Enrollment has dropped from one million to about 793,000 over the past few years. This is a market that is clearly experiencing challenging times.
Rates are not subject to prior approval. But carriers in both of these programs must abide by what is known as a minimum loss ratio of 80 percent, which means that for every dollar taken in premiums, 80 cents must be paid in health benefits.

Rates are being driven by the increased costs of health care. It's that simple. The only way to reduce the trends I have been discussing is to address the costs of healthcare. We need to come up with ways to bend the curve of health care costs.

But keep in mind whatever steps are taken to control premium costs at the state level, will only apply to these regulated marketplaces; 30 percent of the market.

Another emerging issue is the unsettled federal regulatory environment for banks. This could lead to opportunities where federally regulated banks may be open to switching, or flipping, to state charters. This is something I support, encourage and for which I will actively recruit.

As you know, we have a dual banking system now with some financial institutions regulated by the federal government and some regulated by states. Banks have the option to choose a state or a federal charter.

With talk of overhauling the federal regulation of banks heightening, we have an opportunity to convince many financial institutions to switch to a state charter.
That would mean those banks would be subject to New Jersey’s anti-predatory lending laws, consumer protections and banking regulations, which are among the toughest in the nation. It could mean more larger banks domiciled here and that could translate to more jobs and economic growth.

To carry out our mission at DOBI, the Department must maintain accreditation by national associations, the National Association of Insurance Commissioners (NAIC) and the Conference of State Bank Supervisors (CSBS) by meeting the required level of demonstrated capacity and expertise to regulate the institutions we are required to supervise.

**IV – The FY 11 Budget**

Finally, let me talk about our budget.

I want to stress that even though DOBI is largely funded through assessments of the businesses it regulates, the Department should not be exempt from the obligation to cut waste and operate efficiently.

Governor Christie has called for smaller government and less spending and that is a top priority.

To that end, the FY 11 proposed budget for the Department is $59.7 million, down $7.9 million from last year.
This budget also achieves a $20 million contribution to the General Fund. It does so by redirecting one tenth of one percent of the insurance premium tax revenue, which is now dedicated to DOBI operations, to the General Fund. At the same time we would need to adjust the assessment cap of our regulated industries.

This would make DOBI fully industry funded, which is the way it should operate and is consistent with common understanding in the industry.

With these measures, our staffing level would be fully funded to meet the accreditation requirements of the National Association of Insurance Commissioners (NAIC) and the Conference of State Bank Supervisors (CSBS).

Also, as recommended in the Transition Report, the Office of the Insurance Fraud Prosecutor would be reassigned from the Department of Law and Public Safety to DOBI.

You probably know that DOBI, through the assessment of our regulated industries, has been funding the OIFP for many years—last year for a total of about $30 million. We want to reduce this assessment by $10 million.

Moving the Office of the Insurance Fraud Prosecutor to DOBI is a common-sense reorganization that more closely matches the OIFP mission to find and prosecute insurance fraud, while implementing more effective budgetary oversight of the office.
The Governor and I believe this move will lead to more aggressive prosecution of insurance fraud.

V- Wrap-up

Thank you for having me. I appreciate your support and I look forward to working with you.

I know you all strongly support the mission of the department, which I think you would agree is more important than ever in these economic times.

I would be glad to take questions.