Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'**Sec. 1. 24-A MRSA §205-A** is enacted to read:

§ 205-A. Rate hearings

1. Attorney General participation. If the Attorney General intervenes as a party in a hearing held pursuant to a rate filing for an individual health plan as defined in section 2736-C or pursuant to section 2808-B, subsection 2-B, paragraph B for a small group health plan as defined in section 2808-B, the Attorney General may contract for the services of actuarial consultants or other consultants to assist the Attorney General with evaluation of a rate filing. The insurer, nonprofit hospital and medical service organization, nonprofit health care service organization or health maintenance organization making the rate filing shall pay the cost of participation of consultants to the Attorney General in an amount not to exceed $50,000 for any rate filing.

2. Advocacy panel. If the Attorney General or any other party has not intervened in any proceeding regarding an individual or small group rate filing, the bureau shall impanel an advocacy panel to represent the interests of consumers and the public. The bureau may contract for the services of an advocacy panel if existing staff resources are not adequate to represent the interests of consumers and the public. The insurer, nonprofit hospital and medical service organization, nonprofit health care service organization or health maintenance organization making the rate filing shall pay the cost of participation of the advocacy panel.

3. Rules. The bureau may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. 24-A MRSA §2735-A, sub-§1, as enacted by PL 2001, c. 432, §4, is amended to read:

1. Notice of rate filing or rate increase on existing policies. An insurer offering individual health plans as defined in section 2736-C must provide written notice by first class mail of a rate filing to all affected policyholders at least ~~60~~90 days before the effective date of any proposed increase in premium rates or any proposed rating formula, classification of risks or modification of any formula or classification of risks. The notice must also inform policyholders of their right to request a hearing pursuant to section 229 ~~or a special rate hearing pursuant to section 2736, subsection 4 or Title 24, section 2321, subsection 5~~. The notice must state that the Attorney General is authorized to represent consumers in rate proceedings and must include information about how to contact the Office of the Attorney General. The notice must show the proposed rate and state that the rate is subject to regulatory approval. The superintendent may not take final action on a rate filing until ~~40~~70 days after the date notice is mailed by an insurer. An increase in premium rates may not be implemented until ~~60~~90 days after the notice is provided or until the effective date under section 2736, whichever is later.

Sec. 3. 24-A MRSA §2735-A, sub-§2, as enacted by PL 2001, c. 432, §4, is amended to read:

2. Notice of rate increase on new business. When an insurer offering individual health plans as defined in section 2736-C quotes a rate for new business, it must disclose any rate increase that the insurer anticipates implementing within the following ~~90~~120 days. If the quote is in writing, the disclosure must also be in writing. If the increase is pending approval at the time of notice, the disclosure must include the proposed rate and state that it is subject to regulatory approval. If disclosure required by this subsection is not provided, an increase may not be implemented until at least ~~90~~120 days after the date the quote is provided or the effective date under section 2736, whichever is later.

Sec. 4. 24-A MRSA §2736, sub-§1, as amended by PL 2003, c. 428, Pt. F, §2, is further amended to read:

1. Filing of rate information. Every insurer shall file with the superintendent for approval every rate, rating formula, classification of risks and every modification of any formula or classification that it proposes to use in connection with individual health insurance policies and certain group policies specified in section 2701. If the filing applies to individual health plans as defined in section 2736-C, the insurer shall simultaneously file a copy with the Attorney General. Every such filing must state the effective date of the filing. Every such filing must be made not less than 60 days, or 90 days in the case of a filing that applies to individual health plans as defined in section 2736-C, in advance of the stated effective date, unless the 60-day or 90-day requirement is waived by the superintendent, and the effective date may be suspended by the superintendent for a period of time not to exceed 30 days. ~~In the case of a filing that meets the criteria in subsection 3, the superintendent may suspend the effective date for a longer period not to exceed 30 days from the date the organization satisfactorily responds to any reasonable discovery requests.~~

Sec. 5. 24-A MRSA §2736, sub-§2, as amended by PL 1997, c. 344, §8, is further amended to read:

2. Filing; information. When a filing is not accompanied by the information upon which the insurer supports such filing, or the superintendent does not have sufficient information to determine whether such filing meets the requirements that rates be reasonable and necessary and not ~~be excessive,~~ inadequate or unfairly discriminatory, the superintendent shall require the insurer to furnish the information upon which it supports the filing. A filing and all supporting information, except for descriptions of the amount and terms or conditions of compensation or reimbursement in a contract between an insurer and a 3rd party, are public records ~~within the meaning of~~notwithstanding Title 1, section 402, subsection 3 and become part of the official record of any hearing held pursuant to section 2736-A.

Sec. 6. 24-A MRSA §2736, sub-§3, as amended by PL 2003, c. 469, Pt. E, §9, is repealed.

Sec. 7. 24-A MRSA §2736, sub-§4, as amended by PL 2003, c. 469, Pt. E, §10, is repealed.

Sec. 8. 24-A MRSA §2736, sub-§5 is enacted to read:

5. Standard for approval. The standards in this subsection apply to the making and use of rates pursuant to this section for individual health plans as defined in section 2736-C.

A. Rates are determined not to be reasonable and necessary if the rates are likely to produce a profit from business in this State that is unreasonably high in relation to the benefits provided, the surplus requirements and the surplus available, or if expenses are unreasonably high in relation to the benefits provided.

B. Rates are determined not to be reasonable and necessary if the rate structure established by a stock insurance company provides for replenishment of surpluses from premiums when replenishment is attributable to investment losses.

C. Rates are determined to be inadequate if the rates are clearly insufficient, together with investment income attributable to the rates, to sustain projected losses and expenses for the benefits provided.

D. Rates are determined to be unfairly discriminatory if price differentials fail to equitably reflect the differences in expected losses and expenses.

Sec. 9. 24-A MRSA §2736, sub-§6 is enacted to read:

6. Factors to be considered. In determining whether the standards in subsection 5 have been met, the factors considered by the superintendent may include but are not limited to:

A. The past and prospective net underwriting gains of the insurer from the line of insurance for which the insurer seeks rate approval;

B. The past, current and reasonably expected surplus levels of the carrier anticipated in the filing;

C. Investment income reasonably expected by the carrier from premiums anticipated in the filing, plus any other expected income from currently invested assets representing the amount expected on unearned premium reserves and loss reserves;

D. The degree of competition in the market for which the rate approval is sought and in the overall health insurance market; and

E. The profit and risk charge included in the previous year's rate filing and the profit actually achieved.

Sec. 10. 24-A MRSA §2736-A, first ¶, as amended by PL 2003, c. 469, Pt. E, §11, is further amended to read:

If at any time the superintendent has reason to believe that a filing does not meet the requirements that rates ~~not~~ be ~~excessive,~~reasonable and necessary and not inadequate, unfairly discriminatory or not in compliance with section 6913 or that the filing violates any of the provisions of chapter 23, the superintendent shall cause a hearing to be held. If a filing proposes an increase in rates in an individual health plan as defined in section 2736-C, the superintendent shall cause a hearing to be held at the request of the Attorney General. In any hearing conducted under this section, the burden of proving that rates are reasonable and necessary, adequate, not unfairly discriminatory and in compliance with the requirements of section 6913 remains with the insurer.

Sec. 11. 24-A MRSA §2808-B, sub-§2-A, as enacted by PL 2003, c. 469, Pt. E, §16, is amended to read:

2-A. Rate filings. A carrier offering small group health plans shall file with the superintendent for approval and with the Attorney General the community rates for each plan and every rate, rating formula and classification of risks and every modification of any formula or classification that it proposes to use.

A. Every filing must state the effective date of the filing. Every filing must be made not less than ~~60~~90 days in advance of the stated effective date, unless the ~~60-day~~90-day requirement is waived by the superintendent. The effective date may be suspended by the superintendent for a period of time not to exceed 30 days. ~~In the case of a filing that meets the criteria in subsection 2-B, paragraph E, the superintendent may suspend the effective date for a longer period not to exceed 30 days from the date the carrier satisfactorily responds to any reasonable discovery requests.~~

B. A filing and supporting information, except for descriptions of the amount and terms or conditions of compensation or reimbursement in a contract between an insurer and a 3rd party, are public records ~~except as provided by~~notwithstanding Title 1, section 402, subsection 3 and become part of the official record of any hearing held pursuant to subsection 2-B, ~~paragraphs~~paragraph B ~~or F~~.

C. Rates for small group health plans must be filed in accordance with this section and ~~subsections~~subsection 2-B ~~and 2-C~~ for premium rates effective on or after July 1, 2004, except that the filing of rates for small group health plans are not required to account for any savings offset payment or any recovery of that offset payment pursuant to subsection 2-B, paragraph D and section 6913 for rates effective before July 1, 2005.

Sec. 12. 24-A MRSA §2808-B, sub-§2-B, as enacted by PL 2003, c. 469, Pt. E, §16, is amended to read:

2-B. Rate review and hearings. ~~Except as provided in subsection 2-C, rate~~Rate filings are subject to this subsection.

A. The superintendent shall disapprove any premium rates filed by any carrier, whether initial or revised, for a small group health plan unless it is anticipated that the aggregate benefits estimated to be paid under all the small group health plans maintained in force by the carrier for the period for which coverage is to be provided will return to policyholders at least 75% of the aggregate premiums collected for those policies, as determined in accordance with accepted actuarial principles and practices and on the basis of incurred claims experience and earned premiums. For the purposes of this calculation, any savings offset payments paid pursuant to section 6913 must be treated as incurred claims.

B. If a filing proposes an increase in rates, at the request of the Attorney General or at any time the superintendent has reason to believe that a filing does not meet the requirements that rates be reasonable and necessary and not ~~be excessive,~~ inadequate or unfairly discriminatory or that the filing violates any of the provisions of chapter 23, the superintendent shall cause a hearing to be held. Hearings held under this subsection must conform to the procedural requirements set forth in Title 5, chapter 375, subchapter 4. The superintendent shall issue an order or decision within 30 days

after the close of the hearing or of any rehearing or reargument or within such other period as the superintendent for good cause may require, but not to exceed an additional 30 days. In the order or decision, the superintendent shall either approve or disapprove the rate filing. If the superintendent disapproves the rate filing, the superintendent shall establish the date on which the filing is no longer effective, specify the filing the superintendent would approve and authorize the insurer to submit a new filing in accordance with the terms of the order or decision.

C. When a filing is not accompanied by the information upon which the carrier supports the filing or the superintendent does not have sufficient information to determine whether the filing meets the requirements that rates be reasonable and necessary and not ~~be excessive,~~ inadequate, unfairly discriminatory or not in compliance with section 6913, the superintendent shall require the carrier to furnish the information upon which it supports the filing.

D. A carrier that adjusts its rate shall account for the savings offset payment or any recovery of that savings offset payment in its experience consistent with this section and section 6913.

~~E. Any filing of rates, rating formulas and modifications that satisfies the criteria set forth in this paragraph is subject to the provisions of paragraph F:~~

~~(1) The proposed rate for any group or subgroup does not include a unit cost change that exceeds the index of inflation multiplied by 1.5, excluding any approved rate differential based on age. For the purposes of this subparagraph, "index of inflation" means the rate of increase in medical costs for a section of the United States selected by the superintendent that includes this State for the most recent 12-month period immediately preceding the date of the filing for which data are available; and~~

~~(2) The carrier demonstrates in accordance with generally accepted actuarial principles and practices consistently applied that, as of a date no more than 210 days prior to the filing, the ratio of benefits incurred to premiums earned averages no less than 78% for the previous 36-month period.~~

~~F. Any rate hearing conducted with respect to filings that meet the criteria in paragraph E is subject to this paragraph.~~

~~(1) A person requesting a hearing shall provide the superintendent with a written statement detailing the circumstances that justify a hearing, notwithstanding the satisfaction of the criteria in paragraph E.~~

~~(2) If the superintendent decides to hold a hearing, the superintendent shall issue a written statement detailing the circumstances that justify a hearing, notwithstanding the satisfaction of the criteria in paragraph E.~~

~~(3) In any hearing conducted under this paragraph, the bureau and any party asserting that the rates are excessive have the burden of establishing that the rates are excessive. The burden of proving that rates are adequate, not unfairly discriminatory and in compliance with the requirements of section 6913 remains with the carrier.~~

G. This paragraph applies to the making and use of rates pursuant to this section.

(1) Rates are determined not to be reasonable and necessary if the rates are likely to produce a profit from business in this State that is unreasonably high in relation to the benefits provided, the surplus requirements and the surplus available, or if expenses are unreasonably high in relation to the benefits provided.

(2) Rates are determined not to be reasonable and necessary if the rate structure established by a stock insurance company provides for replenishment of surpluses from premiums when replenishment is attributable to investment losses.

(3) Rates are determined to be inadequate if the rates are clearly insufficient, together with investment income attributable to the rates, to sustain projected losses and expenses for the benefits provided.

(4) Rates are determined to be unfairly discriminatory if price differentials fail to equitably reflect the differences in expected losses and expenses.

H. In determining whether the standards in subsection 6 have been met, the factors considered by the superintendent may include but are not limited to:

(1) The past and prospective net underwriting gains of the insurer from the line of insurance for which the insurer seeks rate approval;

(2) The past, current and reasonably expected surplus levels of the carrier anticipated in the filing;

(3) Investment income reasonably expected by the carrier from premiums anticipated in the filing plus any other expected income from currently invested assets representing the amount expected on unearned premium reserves and loss reserves;

(4) The degree of competition in the market for which the rate approval is sought and in the overall health insurance market; and

(5) The profit and risk charge included in the previous year's rate filing and the profit actually achieved.

Sec. 13. 24-A MRSA §2808-B, sub-§2-C, as amended by PL 2005, c. 121, Pt. E, §§1 and 2, is repealed.

Sec. 14. 24-A MRSA §2839-A, as amended by PL 2005, c. 121, Pt. F, §1 and by c. 400, Pt. A, §2, is further amended to read:

§ 2839-A. Notice of rate increase

1. Notice of rate increase on existing policies. An insurer offering group health insurance, except for small group health plans as defined by section 2808-B and accidental injury, specified disease, hospital indemnity, disability income, Medicare supplement, long-term care or other limited benefit group health insurance, must provide written notice by first class mail of a rate increase to all affected policyholders or others who are directly billed for group coverage at least 60 days before the effective date of any increase in premium rates. An increase in premium rates may not be implemented until 60 days after the notice is provided. ~~For small group health plan rates subject to section 2808-B, subsection 2-B, if the increase is pending approval at the time of notice, the disclosure must state that the increase is subject to regulatory approval.~~

2. Notice of rate increase on new business. When an insurer offering group health insurance, except for small group health plans as defined by section 2808-B and accidental injury, specified disease, hospital indemnity, disability income, Medicare supplement, long-term care or other limited benefit group health insurance, quotes a rate for new business, it must disclose any rate increase that the insurer anticipates implementing within the following 90 days. If the quote is in writing, the disclosure must also be in writing. If such disclosure is not provided, an increase may not be implemented until at least 90 days after the date the quote is provided. ~~For small group health plan rates subject to section 2808-B, subsection 2-B, if the increase is pending approval at the time of notice, the disclosure must state that the increase is subject to regulatory approval.~~

4. Notice of rate increase on existing small group health plans. An insurer offering small group health plans as defined by section 2808-B must provide written notice by first class mail of a rate increase to all affected policyholders or others who are directly billed for group coverage at least 90 days before the effective date of any increase in premium rates. The notice must also inform policyholders of their right to request a hearing pursuant to section 229. The notice must state that the Attorney General is authorized to represent small employers in rate proceedings and must include information about how to contact the Office of Attorney General. The notice must show the proposed rate and state that the rate is subject to regulatory approval. The superintendent may not take final action on a rate filing until 70 days after the date notice is mailed by an insurer. An increase in premium rates may not be implemented until 90 days after the notice is provided or until the effective date under section 2808-B, subsection 2-B, whichever is later.

5. Notice of rate increase on new small group business. When an insurer offering a small group health plan as defined by section 2808-B quotes a rate for new business, the insurer must disclose any rate increase that the insurer anticipates implementing within the following 120 days. If the quote is in writing, the disclosure must also be in writing. If the increase is pending approval at the time of notice, the disclosure must include the proposed rate and state that the rate is subject to regulatory approval. If such disclosure is not provided, an increase may not be implemented until at least 120 days after the date the quote is provided or until the effective date under section 2808-B, subsection 2-B, whichever is later.

Sec. 15. Bureau of Insurance consumer publication. The Department of Professional and Financial Regulation, Bureau of Insurance shall develop one or more consumer publications relating to individual and small group health insurance products and rates. The bureau shall consult with the Office of the Public Advocate to develop this publication or publications using the Office of the Public Advocate's "Ratewatcher Telecom Guide" publication as a model. In addition, the publicly accessible website of the Office of the Public Advocate must include a link to access consumer education publications of the bureau.

Sec. 16. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Insurance - Bureau of 0092

Initiative: Allocates funds for the costs of a half-time insurance actuarial assistant and other administrative costs resulting from the additional rate increase filings required under the bill, including the costs of completing reviews of the filings and assisting in any hearings.

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
POSITIONS - LEGISLATIVE COUNT	0.500	0.500
Personal Services	$29,802	$42,070
All Other	$18,958	$20,791
OTHER SPECIAL REVENUE FUNDS TOTAL	$48,760	$62,861

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SUMMARY

This amendment is the minority report of the committee and replaces the bill. The amendment does the following.

1. It retains the provision of the bill that increases the time period for advance notice of rate increases and rate changes to policyholders from 60 to 90 days.

2. It requires that individual and small group rates be filed and approved by the Superintendent of Insurance.

3. It authorizes the Attorney General to request that a hearing be held for an individual or small group rate filing. If a hearing is held, the Attorney General is authorized to contract for actuarial consultants, with the costs of the consultants up to $50,000 paid by the insurer. If the Attorney General or another party has not intervened, the amendment requires the Bureau of Insurance to appoint an advocacy panel to represent consumers in a rate hearing, with the costs of the panel to be paid by the insurer.

4. It clarifies that all rate filings and information and documentation used to support the filings, except for information relating to contracts between an insurer and a 3rd party, are public records and may be disclosed to the public.

5. It retains the provision of the bill that changes the standard of review that rates not be excessive to the standard that rates be reasonable and necessary.

6. It retains the provision of the bill that requires that rates not be approved unless certain standards are met and supported by evidence in the record.

7. It requires the Bureau of Insurance to develop consumer publications using the Office of the Public Advocate's Ratewatcher publication as a model and directs that a link to the Bureau of Insurance be added to the office's website.

8. It adds an appropriations and allocations section to reflect the costs to the Bureau of Insurance associated with the amendment.

9. It corrects cross-references to repealed law.

FISCAL NOTE REQUIRED
(See attached)