

EMBARGOED UNTIL 1 PM September 16, 2010



**CITIZEN
ACTION**
OF WISCONSIN

Consumer Watchdog Report

False Claims: New Consumer Protections and the
Cost of Auto Insurance in Wisconsin

Robert Kraig, Ph.D.
Executive Director
Citizen Action of Wisconsin

Release Date: September 16, 2010
www.citizenactionwi.org

Executive Summary

The last State Budget established new consumer protections that increase the quality of auto insurance coverage sold in Wisconsin. Insurance industry spokespersons have repeatedly asserted that the new minimum coverage requirements would increase auto insurance premiums by “at least 33%.” Using state data, the report evaluates this contention, finding the insurance industry claim to be grossly misleading.

Major Findings

- 2010 auto insurance rates in Wisconsin were flat, increasing less than 1% for the top insurers in the state.
- 2010 auto insurance inflation in Wisconsin was less than 1/3 of the historical average, which has been 3.3% per year since 1989.
- A national survey found Wisconsin’s auto insurance premiums are still the 4th lowest in the nation.
- Wisconsin auto insurance companies are highly profitable. Over 40% of premium dollars go directly into insurance industry coffers. In 2009 this amounted to \$1.2 billion dollars not paid in claims.
- Over the last two decades, Wisconsin auto insurance industry profits have been 25% above the national average.
- Wisconsin auto insurance companies take in over double the profits that are taken in by the Wisconsin health insurance industry.
- No Wisconsin auto insurance company could meet the new loss ratio standards now required of the health insurance industry by national health care reform.
- Property/Casualty insurers have overcharged consumers over \$200 billion over the past 4 years to fund record profits and excessive reserves.

The premise of the insurance industry and its supporters is that profit margins are so tight that the only way to pay for improved standards that better protect consumers from financial disaster is increased rates. This report finds, to the contrary, that auto insurance is an extremely lucrative business in Wisconsin that generates hundreds of millions of dollars in profits. The findings in this report make it clear that the Wisconsin insurance industry’s claim that the new consumer protections will dramatically increase rates is an orchestrated effort to mislead lawmakers and the general public in order to protect out-sized profits. This “say anything” approach distorts the public debate. Its likely aim is not only to “roll back” reasonable consumer standards, but also to deter any serious discussion of regulating excessive auto insurance rates, reserves, the hollowing out of policies, and the systematic underpayment of claims.

Introduction

The 2009-2011 Wisconsin state budget included consumer protections requiring that all auto insurance policies meet new minimum coverage requirements. Key “Truth in Automobile Insurance” provisions in the state budget include:

- Increasing the mandatory minimum coverage for auto insurance policies for the first time since the early 1980s to \$50,000 in bodily injury coverage for each person, \$100,000 per accident, and \$15,000 for property damage.
- Requiring underinsured motorist coverage, which had been optional and not mandatory
- Guaranteeing that consumers can collect the full value of uninsured and underinsured motorist coverage when they are in an accident
- Requiring insurance companies to pay out the full value of an auto insurance policy when multiple automobiles are covered by the same policy.
- Making the purchase of auto insurance mandatory.
- See Addendum for complete review of new auto insurance standards in 2009-2011 state budget.

Although the new consumer protections increase the quality of auto insurance sold in Wisconsin, increasing the financial security of all policyholders, advocates for the insurance industry have repeatedly asserted that the new minimum coverage requirements will dramatically raise the cost of auto insurance for Wisconsin consumers. They made this claim repeatedly in 2009, during the legislative debate over the new standards, and continue to do so.¹ In June of 2010 the lobbying arm of the auto insurance industry, the Wisconsin Insurance Alliance, claimed that “families could end up being forced to pay at least 33 percent for auto insurance than they were paying before.”²

The insurance industry has conveyed this claim that rates would increase “at least 33%” through the media, and in direct communications to policyholders, with the stated goal of “rolling back” the new consumer protections. The claim has clearly gotten through to key policymakers. For example, in an August 30th newspaper column criticizing the new auto insurance reforms, former Assembly Speaker **Mike Huebsch** (R-West Salem) wrote that “all of the new mandates will increase premiums by at least 33%.”³

This report evaluates the accuracy of the insurance industry claim that Wisconsin auto insurance rates are skyrocketing due to the new standards that took effect this year. Despite the hyperbolic claims of insurance industry spokespersons, the report finds that 2010 Wisconsin auto insurance rates were flat, and that the rate of inflation was substantially below the average increase over the last 20 years. On average, increases were also substantially below the general rate of inflation.

The report also examines the profitability of auto insurance in Wisconsin. The assumption of the insurance industry and its supporters during the debate over

enhanced consumer standards is that profit margins are so tight that the only way to pay for improved standards that better protect consumers from financial disaster is increased rates. This report finds, to the contrary, that auto insurance is an extremely lucrative business in Wisconsin that generates hundreds of millions of dollars in profits. This is part of a national trend over the last 20 years towards excessive profitability in the entire property/casualty insurance industry, of which auto insurance is a subset. In fact, auto insurance is far more profitable than health insurance, where excessive profits have been the subject of intense public outrage. This finding parallels national research which shows that the insurance industry is overcharging the American public by billions of dollars for property and casualty insurance.

The findings in this report make it clear that the Wisconsin insurance industry's claim that the new consumer protections will dramatically increase rates is an orchestrated effort to mislead lawmakers and the general public in order to protect out-sized profits.

Report Findings

The Insurance Industry's Claim that Wisconsin Auto Insurance Rates Would Increase at least 33% Due to the New Consumer Standards is False

To test the insurance industry's claim that auto insurance rates in Wisconsin would increase 33% or more due to the new consumer standards which went into effect in 2010, Citizen Action evaluated rate increases reported to the Wisconsin Office of the Commissioner of Insurance (OCI).⁴ Citizen Action compared these increases to historical information on the rate of auto insurance inflation in Wisconsin since 1989.

According to an in-depth historical analysis of auto insurance rates by the Consumer Federation of America in 2008, Wisconsin auto insurance rates increased by an average of 3.3% per year between 1989 and 2005.⁵ As there were no major improvements in the standards for Wisconsin auto insurance policies during this period, this rate of increase is a good baseline for the general rate of auto insurance inflation in Wisconsin. If the new standards enacted by the Legislature in 2009 were to have the dramatic effect on auto insurance rates claimed by the insurance industry, there should have been an increase well in excess of the 3.3% recent historical average.

Citizen Action's analysis of rate increases for 2010 filed with OCI finds, to the contrary, that the average rate increase in Wisconsin was less than 1%.⁶ Not only is this more the 2% below the historical average for Wisconsin auto insurance inflation, it is also well below the general rate of inflation for 2009, which was 2.7%.⁷

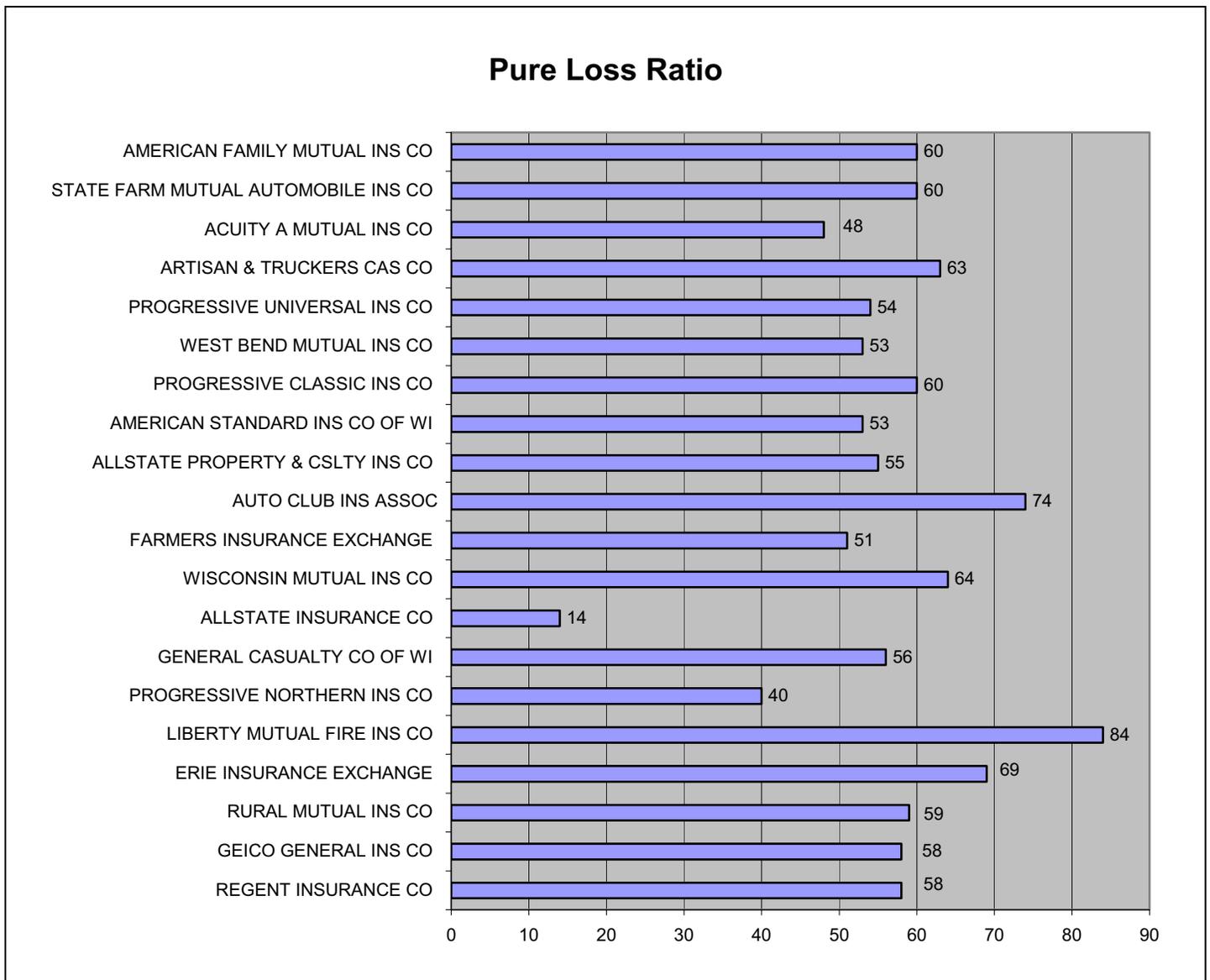
This finding is also confirmed by other national research. The insurance industry claimed that the new consumer standards would undermine Wisconsin's status as one of the states with the most affordable auto insurance. But a national survey of 2010 rates by Insure.com found that Wisconsin's rates are still the 4th lowest in the nation.⁸

Not only is there no correlation between the enhanced consumer standards for Wisconsin auto insurance enacted in 2009 and auto insurance rate inflation, if anything there is a negative correlation.

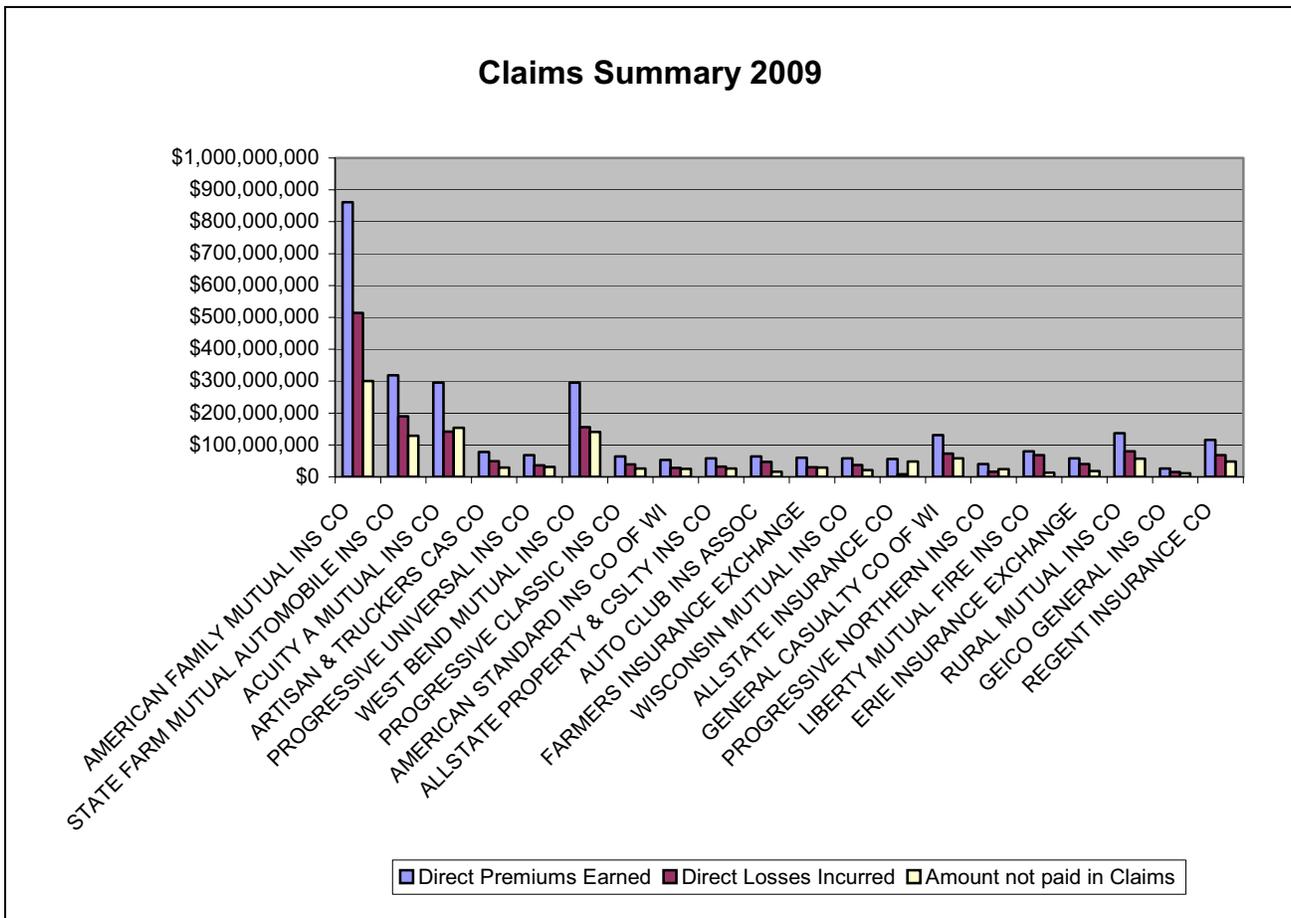
The Wisconsin Auto Insurance Industry is Extremely Profitable and Can Afford to Provide Better Coverage

According to historical data collected by the Consumer Federation of America, Wisconsin auto insurance industry profits were 10% per year between 1997-2006, which is 25% above the national average of 8.1% for the same period.⁹

Data self-reported by the insurance industry to the OCI also shows auto insurance to be highly profitable in Wisconsin. The pure loss ratio is the percentage of premiums that is actually paid out in claims in a given year. The remaining premium dollar not spent on claims is available for profits, overhead, and reserves. For the top 20 Wisconsin auto insurance companies in terms of market share in 2009, the average loss ratio is 57%, meaning that 43% of premium dollars are available for profits, company overhead, and reserves.



In 2009, the largest auto insurance companies in Wisconsin took in just under \$1.2 billion in premium dollars that were not paid out in claims.¹⁰



This finding is further supported by national research by the Consumer Federation of America which shows that property/casualty insurers, of which auto insurance is a subset, have steadily reduced their loss ratios by over 20% over the past two decades, which means they pay less and less back to consumers and keep more for profits and overhead. The profitability of property/casualty insurance has been further increased by the building up of gigantic reserves far in excess of what is needed to pay any conceivable claims, the hollowing out of coverage, and the systematic underpayment of claims through the use of abusive computer models. As a result, property/casualty insurers have overcharged consumers \$200 billion over the last 4 years, or \$1,720 for every family in the United States.¹¹

A comparison to the health insurance line of business further clarifies the extreme profitability of auto insurance in Wisconsin. The loss ratio for Wisconsin auto insurers compares very favorably to health insurers, who have been the subject of public outrage over profits. According to a previous research report by Citizen Action of Wisconsin, the

average loss ratio for the market leaders in Wisconsin is 85.8% in the group health insurance market and 77.4% in the individual health insurance market, for a gross average of 81.6%. Strikingly, the insurers cut of auto insurance premiums is more than double that of the average cut health insurers take on the Wisconsin individual and group health insurance markets (43% vs. 18.4%).¹²

An interesting point of comparison is the new standards in the national health insurance law that passed in 2010. The new national standards for health insurance loss ratios, 85% in the large group market and 80% in the individual and small group market, are over 20 points higher than the average for Wisconsin auto insurers. None of Wisconsin's market share leaders in auto insurance would meet the new loss ratio standards that will soon apply to all health insurance in the United States as a product of national health care reform.¹³

Given the tremendous profitability of auto insurance in Wisconsin, it is very misleading to suggest that improved standards that guarantee that all drivers have adequate coverage can only be paid for by increasing rates.

Discussion

The findings in this report demonstrate that the public information campaign waged by the insurance industry against the "Truth in Auto Insurance" provisions included in the last state budget has been outrageously misleading. While the industry claimed the new provisions would increase Wisconsin auto insurance rates "by at least 33%," in fact increases for 2010 were substantially below the historical average and the general rate of inflation. Wisconsin continues to have among the lowest auto insurance rates in the country.

The profitability of the auto insurance business in Wisconsin also reveals the misleading nature of the insurance industry campaign against the new consumer standards. The auto insurance business is over twice as profitable as the health insurance business, generating \$1.2 billion a year in net revenue over claims for the largest Wisconsin companies. Wisconsin auto insurance profits are also 25% above the national average. Contrary to the claims of the industry, there is more than enough profit for the industry to cover the cost of the new standards which improve the financial security of all policyholders by assuring adequate coverage against loss. This is also borne out by the below average increase in Wisconsin auto insurance rates in 2010. As noted earlier, national research shows that the entire property/casualty insurance industry has built up massive profit margins and excessive reserves over the past two decades.

The grossly misleading nature of the insurance industry campaign against the "Truth in Auto Insurance" reforms is symptomatic of a disturbing trend in the legislative process. It has now become a standard public relations tactic of trade associations to make outrageously distorted claims about the effect of consumer protection legislation, and repeat those claims over and over until they are accepted by legislators and media throughout the state. This "say anything" approach so distorts the public debate that it

becomes more and more difficult for legislators, media, and the general public to tell fact from fiction or to determine the true public interest. In this case, the likely goal of this industry disinformation campaign is not only to “roll back” the very reasonable new consumer standards enacted by the Legislature in 2009, but also to deter legislators from even exploring the regulation of excessive insurance rates, excessive reserves, the hollowing out of policies, and the systematic underpayment of claims.

Addendum: Changes to Automobile Insurance Laws

Several important changes were made to Wisconsin's automobile insurance laws last session. These changes make insurance work better for consumers and help ensure that consumers get what they pay for.

Issue	Old Law	New Law	Reasons for Change
Mandatory Liability Insurance	Automobile insurance not required	All drivers are required to buy auto insurance.	People who drive should be responsible and carry insurance. This belief was affirmed in a 2009 statewide poll by the Mellman Group, which showed that 92 percent of voters surveyed supported that all drivers carry automobile insurance. Wisconsin was the last of two states that did not require drivers to carry automobile insurance.
Minimum Liability Insurance Limits Uninsured (UM)/ Underinsured (UIM) and Medical Payments coverage	Liability: \$25,000 (one person)/ \$50,000 (single occurrence)/ \$10,000 (property); UM: \$25,000/\$50,000 UIM \$50,000/\$100,000 Medical Payments: \$1,000	Liability \$50,000 (one person)/ \$100,000 (single occurrence) /\$15,000 (property) UM: \$100,000/\$300,000 UIM: \$100,000/\$300,000 Medical Payments: \$10,000	The insurance limits had been in place since 1982. They no longer reflected the high costs of healthcare, up over 400 percent during this time period. Low policy limits forced those injured, their healthcare providers, and often the taxpayers to make up the difference between the insurance coverage and actual costs. The at-fault driver should be accountable for the losses and damages he or she caused.
UIM Coverage	Companies were required to offer UIM coverage to policyholders. Each insurance company had its definition of UIM coverage.	All drivers must purchase UIM coverage. UIM coverage is now defined by comparing the negligent driver's liability insurance coverage with the amount of damages actually sustained by the person injured.	UIM coverage compensates the injured party when the at-fault driver does not have adequate insurance to compensate for the injuries caused. The new law provides better protection for people purchasing UIM coverage. No longer can insurance companies deceive consumers on the amount of coverage they are buying. When you buy a certain amount of UIM coverage that is the coverage you will have available if you are in an accident and the other driver does not have enough liability insurance.
Reducing Clauses for UM/UIM coverages	Insurance companies were allowed to reduce UM/UIM coverages because of workers comp payments or the amount of insurance carried by the driver who caused the collision.	Does not allow reducing clauses. Consumers will be able to access all the UM/UIM coverage they purchase.	If a driver buys \$100,000 in coverage. That is the coverage that should be available to the injured person. To allow a reduction of the uninsured or underinsured motor policy means that the amount of insurance purchased is an illusion because an insured driver will never recover the amount of coverage purchased.
Stacking for UM/UIM policies when owning multiple vehicles	Consumers who own more than one vehicle with UM/UIM policies were not allowed to access the coverages from the additional policies to cover damages.	Consumers will be able to access the additional coverages from up to three of their UM/UIM policies to cover damages from an accident.	Stacking UM/UIM coverages means you are able to collect from more than one of your auto insurance policies if the damages for your injuries and property damage suffered in an accident. Allowing for stacking is like paying for multiple life insurance policies. If you pay a premium on three policies and die, your beneficiaries get all three policies.

<p>Umbrella Policies and UM/UIM coverages</p>	<p>Companies were required to offer UM/UIM coverage in umbrella policies, but not required to document consumers' response to the offer. Nonpayment alone was proof that consumers hadn't purchased the additional coverage. If an insurer failed to offer the coverage there was a minimal penalty.</p>	<p>Companies must still offer UM/UIM coverage as a part of umbrella policies, but consumers refusing the coverage must do so in writing. The penalty for failing to offer the coverage is same limit as the umbrella liability coverage.</p>	<p>Requiring written rejection of UM/UIM coverage in umbrella policies provides to consumers with more information and better protection. The penalty for not offering the coverage has been strengthened to better protect insurance consumers.</p>
<p>Hit and Run Coverage</p>	<p>Physical contact between vehicles was required if a driver left the scene. A driver could not get UM coverage if they swerved to avoid a collision and then lost control of their vehicle and was injured even if there were witnesses to the accident.</p>	<p>UM coverage covers damages caused by an unidentified driver even if there was no "hit" (physical contact) if there is evidence by an independent third party to the event</p>	<p>If a driver swerved to avoid a collision and was injured, the lack of physical contact should not preclude coverage, if there is evidence by an independent third party.</p>

Endnotes

¹ A February 17, 2009 press release from the Wisconsin Insurance Alliance claimed there would be a 33-43% increase in auto insurance rates because of the increased standards. Since then, the consistent claim has been that the increase would be “at least 33%.”

² Matthew Glans, “Wisconsin Auto Insurance Mandate Hikes Hit State’s Drivers,” *Finance, Insurance & Real Estate News*, Heartland Institute, June 21, 2010. http://www.heartland.org/firepolicy-news.org/article/27855/Wisconsin_Auto_Insurance_Mandate_Hikes_Hit_States_Drivers.html

³ Mike Huebsch, “Auto Insurance Rate Hikes on the Way for Wisconsin Drivers,” *Eau Claire Journal*, August 30, 2010.

https://www.eauclairjournal.com/article/646/Auto_Insurance_Rate_Hikes_on_the_Way_for_Wisconsin_Drivers

⁴ All information used in this report from the Wisconsin Office of the Commissioner of Insurance (OCI) is available on-line at <http://oci.wi.gov/>

⁵ J. Robert Hunter, “State Automobile Insurance Regulation: A National Quality Assessment and In-Depth Review of California’s Uniquely Effective Regulatory System,” Consumer Federation of America (April 2008), p. 8.

⁶ We analyzed the rate reports of Wisconsin companies with over \$38 million per year in auto insurance premiums written, which is the top 11 companies in terms of market share. These companies constitute nearly 60% of the auto insurance market in Wisconsin. For this group the increase in rates for 2010 was 0.2%. As some companies had increases and others had decreases, we also re-ran the numbers dropping out the largest increase and the largest decrease. This operation still results in an increase below 1% (0.87%).

⁷ US Inflation Calculator 1913-2010, <http://www.usinflationcalculator.com/inflation/consumer-price-index-and-annual-percent-changes-from-1913-to-2008/>

⁸ Nolan Hester, “The most and least expensive states for car insurance in 2010,” Insure.com, April 9, 2010, <http://www.insure.com/car-insurance/most-and-least-expensive-states-2010.html>

⁹ Hunter, “State Automobile Insurance Regulation,” p. 4.

¹⁰ Wisconsin Insurance Report Business of 2009, Wisconsin Office of the Commissioner of Insurance, Table F: 2009 Financial Data of Property and Casualty Insurers. (Wisconsin Office of the Commissioner of Insurance, September 1, 2010).

¹¹ J. Robert Hunter, “Property/Casualty Insurance in 2008: Overpriced Insurance and Underpaid Claims Result in Unjustified Profits, Padded Reserves, and Excessive Capitalization,” Consumer Federation of America (January 10, 2008), http://www.consumerfed.org/elements/www.consumerfed.org/file/finance/2008Insurance_White_Paper.pdf

¹² Darcy Haber and Robert Kraig, “A Heavy Burden: The Hidden Cost of Health Insurance in Wisconsin,” Citizen Action of Wisconsin, October 7, 2008. <http://citizenactionwi.org/images/stories/Reports/citizen%20action%20wisconsin%20insurance%20report%20final.pdf>

¹³ “Liberals call for tight restrictions on how health plans can spend their money,” *The Hill* (July 22, 2010), <http://thehill.com/blogs/healthwatch/health-reform-implementation/110413-liberals-call-for-tight-restrictions-on-how-health-plans-can-spend-their-money>

For more information on this report contact Robert Kraig, Executive Director, Citizen Action of Wisconsin, 221 S. 2nd St., Suite 300, Milwaukee, WI 53204. Web: www.citizenactionwi.org email: robert.kraig@citizenactionwi.org phone: (414) 322-5324.