

TWENTY-SECOND DAY

Tuesday, February 21, 1995

The Senate of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1995, convened at 11:37 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Elder Denton Grady, Director of Youth Ministries, Hawaii Conference of Seventh-Day Adventists, after which the Roll was called showing all Senators present with the exception of Senator Grauly who was excused.

The President announced that he had read and approved the Journal of the Twenty-First Day.

Senator Baker introduced and commended ten of Hawaii's outstanding travel partners and top tour wholesalers. All of the guests were presented Senate certificates and leis by various Senators.

At 11:45 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:49 o'clock a.m.

HOUSE COMMUNICATION

Hse. Com. No. 20, transmitting H.B. No. 1581, which passed Third Reading in the House of Representatives on February 17, 1995, was read by the Clerk and was placed on file.

On motion by Senator Ihara, seconded by Senator Liu and carried, H.B. No. 1581, entitled: "A BILL FOR AN ACT RELATING TO ADULT AND COMMUNITY EDUCATION," passed First Reading by title and was referred to the Committee on Education.

At 11:50 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 12:18 o'clock p.m.

ORDER OF THE DAY

THIRD READING

S.B. No. 1773:

By unanimous consent, action on S.B. No. 1773 was deferred to the end of the evening calendar.

S.B. No. 1645, S.D. 1:

By unanimous consent, action on S.B. No. 1645, S.D. 1, was deferred to the end of the evening calendar.

S.B. No. 310, S.D. 1:

By unanimous consent, action on S.B. No. 310, S.D. 1, was deferred to the end of the evening calendar.

S.B. No. 886:

By unanimous consent, action on S.B. No. 886 was deferred to the end of the evening calendar.

S.B. No. 887:

By unanimous consent, action on S.B. No. 887 was deferred to the end of the evening calendar.

S.B. No. 893, S.D. 1:

By unanimous consent, action on S.B. No. 893, S.D. 1, was deferred to the end of the evening calendar.

S.B. No. 426:

By unanimous consent, action on S.B. No. 426 was deferred to the end of the evening calendar.

Stand. Com. Rep. No. 247 (S.B. No. 1762, S.D. 1):

By unanimous consent, action on Stand. Com. Rep. No. 247 and S.B. No. 1762, S.D. 1, was deferred to the end of the evening calendar.

S.B. No. 85, S.D. 1:

By unanimous consent, action on S.B. No. 85, S.D. 1, was deferred to the end of the evening calendar.

S.B. No. 1912, S.D. 1:

By unanimous consent, action on S.B. No. 1912, S.D. 1, was deferred to the end of the evening calendar.

S.B. No. 304:

By unanimous consent, action on S.B. No. 304 was deferred to the end of the evening calendar.

S.B. No. 305:

By unanimous consent, action on S.B. No. 305 was deferred to the end of the evening calendar.

S.B. No. 1566:

By unanimous consent, action on S.B. No. 1566 was deferred to the end of the evening calendar.

S.B. No. 1567, S.D. 1:

By unanimous consent, action on S.B. No. 1567, S.D. 1, was deferred to the end of the evening calendar.

S.B. No. 1575:

By unanimous consent, action on S.B. No. 1575 was deferred to the end of the evening calendar.

S.B. No. 1577, S.D. 1:

By unanimous consent, action on S.B. No. 1577, S.D. 1, was deferred to the end of the evening calendar.

S.B. No. 1578, S.D. 1:

By unanimous consent, action on S.B. No. 1578, S.D. 1, was deferred to the end of the evening calendar.

S.B. No. 1763, S.D. 1:

By unanimous consent, action on S.B. No. 1763, S.D. 1, was deferred to the end of the evening calendar.

Stand. Com. Rep. No. 382 (S.B. No. 1594, S.D. 1):

Senator Ikeda moved that Stand. Com. Rep. No. 382 be adopted and S.B. No. 1594, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Baker.

Senator Ikeda rose to speak in favor of the measure as follows:

"Mr. President, I rise reluctantly to speak in favor of this bill.

"I share the frustrations of my colleagues and I've noted, as have other members of this committee, that this emergency appropriation has doubled since last year. This goes towards paying overtime at the prisons. Unfortunately, Mr. President, we have no choice but to pass this legislation and if there were an alternative, believe me, I would have taken it. The problem is recognizable. It's one that I think the administration has to handle. I think the message has been given to them very loud and clear -- at least at the Ways and Means hearing -- that something has to be done to prevent this from continuing.

"If we don't pass this measure, we will be short. That would mean not being able to meet the provisions of the consent decree that we are currently under. That could throw us back into court and we'd probably lose complete control over the system because the whole problem would be turned over to a master, which in essence, would ultimately cost us more money.

"So it is with great reluctance, Mr. President, that I ask for the support of this body for this bill."

The motion was then put by the Chair and carried, Stand. Com. Rep. No. 382 was adopted and S.B. No. 1594, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR PUBLIC SAFETY," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Graulty).

Stand. Com. Rep. No. 383 (S.B. No. 1596, S.D. 1):

On motion by Senator Ikeda, seconded by Senator Baker and carried, Stand. Com. Rep. No. 383 was adopted and S.B. No. 1596, S.D. 1, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE STATE WORKERS' COMPENSATION PROGRAM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 23. Noes, 1 (Liu). Excused, 1 (Graulty).

Stand. Com. Rep. No. 384 (S.B. No. 1680, S.D. 2):

On motion by Senator Ikeda, seconded by Senator Baker and carried, Stand. Com. Rep. No. 384 was adopted and S.B. No. 1680, S.D. 2, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR HEALTH," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Graulty).

Stand. Com. Rep. No. 385 (S.B. No. 1682):

On motion by Senator Ikeda, seconded by Senator Baker and carried, Stand. Com. Rep. No. 385 was adopted and S.B. No. 1682, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR THE PAYMENT PROGRAMS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Graulty).

Stand. Com. Rep. No. 386 (S.B. No. 1690):

Senator Ikeda moved that Stand. Com. Rep. No. 386 be adopted and S.B. No. 1690, having been read throughout, pass Third Reading, seconded by Senator Baker.

Senator Anderson rose to speak on the measure and said:

"Mr. President, I would just like to comment that I have some reservations on all of the appropriation bills, primarily because they come up to \$31 million. I think it is a shame that we have allowed ourselves to get this far along without knowing how we are going to take care of our bills. This is really shameful and it's coverage for all of these bills. I will be voting for it, but I think that we should have never let ourselves get into this bind. Thank you."

Senator Ikeda then responded:

"Mr. President, briefly in response to the previous speaker, this is not something that this Legislature was aware of. You may recall that I got up on this floor last year when emergency appropriation measures had to be passed to cover shortfalls in AFDC, welfare and foster parents programs. And I said then, give us the true figures; don't expect me to support any emergency appropriations again. I'm having to eat my words. And the reason for that is because we were never given the true figures. When we looked at these programs last year, we thought we had the correct figures, and it is only since this administration has taken office that we are now being told that these figures were adjusted by Budget and Finance. That being the case, Mr. President, and I don't like it any more than the rest, I think that we have to cover these shortfalls."

Senator Anderson then remarked:

"Mr. President, just one remark. I don't blame the chairman and I don't blame the body in its entirety. I do blame the prior administration. In our committee hearings the other day on workers' comp, when they said that we should look at how best to take care of problems, the state had an increase in its own insured, private-insured and self-insured. I'm just saying that we have to look at all aspects. I'm taking the blame as well as everybody else. I just hate to see the administration or anybody let this continue. That's all. Thank you."

The motion was then put by the Chair and carried, Stand. Com. Rep. No. 386 was adopted and S.B. No. 1690, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR OPERATING EXPENSES FOR THE STATE MEDICAL ASSISTANCE PROGRAM," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 24. Noes, none. Excused, 1 (Graulty).

At 12:26 o'clock p.m., on motion by Senator Ihara, seconded by Senator Liu and carried, the Senate stood in recess until 5:00 o'clock p.m.

EVENING SESSION

The Senate reconvened at 5:08 o'clock p.m.

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 21 to 28) were read by the Clerk and were disposed of as follows:

Hse. Com. No. 21, transmitting H.B. No. 144, H.D. 1, which passed Third Reading in the House of Representatives on February 21, 1995, was placed on file.

On motion by Senator Ihara, seconded by Senator Liu and carried, H.B. No. 144, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE RELEASE OF PRETRIAL INMATES," passed First Reading by title and was referred to the Committee on Judiciary.

Hse. Com. No. 22, transmitting H.B. No. 1208, H.D. 1, which passed Third Reading in the House of Representatives on February 21, 1995, was placed on file.

On motion by Senator Ihara, seconded by Senator Liu and carried, H.B. No. 1208, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DEPOSITS OF PUBLIC FUNDS," passed First Reading by title and was referred to the Committee on Ways and Means.

Hse. Com. No. 23, transmitting H.B. No. 1374, H.D. 1, which passed Third Reading in the House of Representatives on February 21, 1995, was placed on file.

On motion by Senator Ihara, seconded by Senator Liu and carried, H.B. No. 1374, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO TOURISM," passed First Reading by title and was referred to the Committee on Tourism and Recreation, then to the Committee on Ways and Means.

Hse. Com. No. 24, transmitting H.B. No. 1827, H.D. 1, which passed Third Reading in the House of Representatives on February 21, 1995, was placed on file.

On motion by Senator Ihara, seconded by Senator Liu and carried, H.B. No. 1827, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO PROCUREMENT BY THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES," passed First Reading by title and was referred to the Committee on Transportation and Government Affairs, then to the Committee on Ways and Means.

Hse. Com. No. 25, transmitting H.B. No. 1835, H.D. 1, which passed Third Reading in the House of Representatives on February 21, 1995, was placed on file.

On motion by Senator Ihara, seconded by Senator Liu and carried, H.B. No. 1835, H.D. 1, entitled: "A BILL FOR AN ACT RELATING TO EXPENDITURE OF GOVERNMENT FUNDS FOR GRANTS," passed First Reading by title and was referred to the Committee on Transportation and Government Affairs, then to the Committee on Ways and Means.

Hse. Com. No. 26, transmitting H.B. No. 1984, H.D. 1, which passed Third Reading in the House of Representatives on February 21, 1995, was placed on file.

On motion by Senator Ihara, seconded by Senator Liu and carried, H.B. No. 1984, H.D. 1, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR THE PAYMENT PROGRAMS," passed First Reading by title and was referred to the Committee on Human Services, then to the Committee on Ways and Means.

Hse. Com. No. 27, transmitting H.B. No. 1992, H.D. 1, which passed Third Reading in the House of Representatives on February 21, 1995, was placed on file.

On motion by Senator Ihara, seconded by Senator Liu and carried, H.B. No. 1992, H.D. 1, entitled: "A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR OPERATING EXPENSES FOR

THE STATE MEDICAL ASSISTANCE PROGRAM," passed First Reading by title and was referred to the Committee on Human Services, then to the Committee on Ways and Means.

Hse. Com. No. 28, transmitting H.B. No. 1995, H.D. 2, which passed Third Reading in the House of Representatives on February 21, 1995, was placed on file.

On motion by Senator Ihara, seconded by Senator Liu and carried, H.B. No. 1995, H.D. 2, entitled: "A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION FOR THE STATE WORKERS' COMPENSATION PROGRAM," passed First Reading by title and was referred to the Committee on Agriculture, Labor, and Employment, then to the Committee on Ways and Means.

MATTERS DEFERRED FROM THE MORNING CALENDAR

THIRD READING

S.B. No. 1773:

On motion by Senator McCartney, seconded by Senator Chumbley and carried, S.B. No. 1773, entitled: "A BILL FOR AN ACT RELATING TO EXTRADITIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Aki, Gaulty, Tam).

S.B. No. 1645, S.D. 1:

On motion by Senator Iwase, seconded by Senator Ige and carried, S.B. No. 1645, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CHAPTER 183C," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Aki, Gaulty, Tam).

S.B. No. 310, S.D. 1:

On motion by Senator Ikeda, seconded by Senator Baker and carried, S.B. No. 310, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO SPECIAL PURPOSE REVENUE BONDS AND THE AUTHORIZATION FOR ISSUANCE THEREOF," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Aki, Gaulty, Tam).

S.B. No. 886:

On motion by Senator Ikeda, seconded by Senator Baker and carried, S.B. No. 886, entitled: "A BILL FOR AN ACT RELATING TO THE CONTROLS TO BE EXERCISED IN THE EXECUTION OF THE BUDGET AND OTHER PROGRAM APPROPRIATIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Aki, Gaulty, Tam).

S.B. No. 887:

On motion by Senator Ikeda, seconded by Senator Baker and carried, S.B. No. 887, entitled: "A BILL FOR AN ACT PROPOSING AN AMENDMENT TO SECTION

11 OF ARTICLE VII OF THE CONSTITUTION OF THE STATE OF HAWAII," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Aki, Graulty, Tam).

S.B. No. 893, S.D. 1:

On motion by Senator Ikeda, seconded by Senator Baker and carried, S.B. No. 893, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO STATE SERVICE FEES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Aki, Graulty, Tam).

S.B. No. 426:

On motion by Senator McCartney, seconded by Senator Chumbley and carried, S.B. No. 426, entitled: "A BILL FOR AN ACT RELATING TO DISTRICT COURT JUDGES," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Aki, Graulty, Tam).

Stand. Com. Rep. No. 247 (S.B. No. 1762, S.D. 1):

Senator Ikeda moved that Stand. Com. Rep. No. 247 be adopted and S.B. No. 1762, S.D. 1, having been read throughout, pass Third Reading, seconded by Senator Baker.

Senator Fernandes Salling rose to inquire if the chair of the Committee on Consumer Protection would yield to a question. The President then posed the question to the chair and the chair having responded in the affirmative, Senator Fernandes Salling asked:

"Mr. Chairman, could you explain to us how the 'pure no-fault' system in Quebec and Israel, which you cite in your committee report, works? What other factors involved in those insurance systems are comparable to the factors that you have in this bill such that the data proposed and the stats you cite for reducing both the premiums and accidents would in fact work under this proposed bill because we have incorporated in the same factors as they have in Quebec and Israel?"

Senator Holt responded:

"Mr. President, as I understand it, Quebec and Israel have adopted the 'pure no-fault' system. As far as the specifics related to the question that the previous speaker had, generally speaking, the 'pure no-fault' system allows for insurance to be provided for first-party coverage. In essence, you would not have to purchase bodily injury liability, uninsured insurance, or under-insured insurance. And technically, if you were in an accident, you would have a sufficient amount of medical benefits coverage to cover the majority of the accidents. Other than that, Mr. President, I do not know the details regarding Quebec and Israel, but they do have a 'pure no-fault' system that we are proposing right here in this bill. Thank you."

Senator Fernandes Salling further inquired:

"Mr. President, in regards to the answer that the chair expressed, would the chair yield to explaining or clarifying some of those remarks? I'm sorry, did you say that under the Israel and Quebec system one of the factors that they don't have is that they have abolished the

uninsured and under-insured coverage and that they have abolished ... well, let's take that factor first."

Senator Holt answered:

"Mr. President, as I stated, they have a 'pure no-fault' system and that's what 'pure no-fault' is.

Senator Fernandes Salling continued:

"That's your definition of 'pure no-fault,' it may not be theirs, Senator Holt. I think it is critical for this body to know that the data this bill is based on, which is the Quebec and Israel no-fault system or 'pure no-fault' system, is in fact defined and set out as we have it here, as you are calling it 'pure no-fault' in this bill."

Senator Holt responded:

"Mr. President, I understand where the previous speaker is coming from, but I believe that's inconsequential. I think the details of the bill that we have before us tries to incorporate the major components of a 'pure no-fault' system and we have included them in the bill. I don't believe that it's really necessary to compare it with Quebec's or Israel's laws. Thank you."

Senator Fernandes Salling inquired again:

"Mr. President, will the chairman yield to another question?

The President posed the question to the chair and the chair having answered in the affirmative, Senator Fernandes Salling asked:

"Senator Holt, is it true that there is no such system as defined under this bill in any of the states today and there is no, quote 'pure no-fault' system in any of the United States today? And in fact, what is being proposed here would be a first of its kind?"

Senator Holt answered:

"Mr. President, if I might, I think that this bill is being put together in the belief that it is a political question dependent upon numerous factors pertinent and peculiar to the individual states, whatever insurance plans that they adopt. No single bill could conceivably satisfy the myriad requirements of all the different states with their different populations, economics, existing laws and political and philosophical backgrounds. I believe that this is landmark legislation that we have here and it is a bold step forward to solving the problems that are peculiar to Hawaii."

Senator Solomon rose to speak on the measure as follows:

"Mr. President, I'm just speaking on this legislation with reservations.

"I'd just like to remind you and this body, and especially our chairman who is taking this position as the Senate's position to the House, that we all stood here two years ago and talked about a 15% rollback, which unfortunately we never, never saw. And I know that we are all very much aware of the fact that the consumer out there is disgusted to the point of revolt. I think that was the hottest issue during the election. As I see this bill, as it now stands and upon discussion with the chairman, he said that he was very much concerned about the kinds of reductions that we could anticipate by the passage of this bill.

"So at this time, Mr. President, I would like to ask the chairman if he could explain to us the kinds of reductions he anticipates for the consumer. As I'm reading this bill, I know that the insurance companies and the medical providers are going to be coming out on this bill, but I don't see what's in it for the consumer in terms of the kinds of reductions. Thank you."

Senator Holt responded:

"Mr. President, in response to the previous speaker's question, I believe I would like to go back to the public hearing that we had on the bills. We had ample public hearings for the community to come out and testify. At our hearing on this particular proposal, the members were there. We had, I believe, almost everybody at the hearing. The industry came forward and indicated that if this proposal were adopted, they could immediately see reductions of 28% to 32% in automobile premiums. And what that translates into, Mr. President, can be characterized by what happened immediately following the hearing. Hugh Yoshida, the athletic director from the University of Hawaii, came forward to testify on another bill and asked if he could comment on what we were discussing just before his bill came up. He indicated that if this bill were to pass, he would immediately see a savings in his insurance premiums of \$2,000 a year because he buys insurance for his wife and his three children. So we are not talking about a small amount of money. The consumer will benefit if this bill passes."

"I think there is a message that has to be carried out. I appreciate the concerns and the discussions that I've had with other members in the Senate regarding catastrophic situations. We will take those considerations into conference, hopefully, when we get there. I understand where they are coming from and I would ask everybody to support this bill. Thank you."

Senator Levin then rose in favor of the measure and said:

"Mr. President, I rise to speak in favor of the bill with reservations."

"I think we all know this is not the final action on this bill. We do want to get some no-fault reform in place, and therefore I will be voting for this bill and watching it carefully as it moves forward through the process. I think what we need to be aware of and cautious about is that when we speak to someone like Hugh Yoshida who has a good job with a good salary, we're not taking into account those people who are living on the edge, who don't have a lot of money, who are barely making ends meet. And they have to choose between food and auto insurance and home owner's insurance and all the other necessities of life."

"Many people are being forced to give up their car because they can't afford the insurance; they give up their license because they can't afford the insurance. They lose their job because they don't have a license and they can't drive to work or they can't drive at work. It's a vicious circle that needs to be broken."

"Lowering insurance premium rates from \$1,000 a car to \$700 or \$800 -- even if that is the final figure that comes out -- is not going to help these people afford the insurance they need if we continue to mandate insurance. I don't think the proposal that we have before us goes far enough to lower the premiums to make insurance affordable for our community and our constituents who are so unhappy with mandatory insurance and so unhappy with the rates they have to pay."

"So I commend the chair for keeping the bill alive, for looking for no-fault reform that will bring about meaningful change and look forward to his next move in this area. Thank you."

Senator Solomon also rose in support and said:

"Mr. President, speaking in support of the remarks made by the previous speaker."

"As you know, Mr. President and my colleagues, it's no secret that I have always been a strong proponent of 'pay-at-the-pump.' I'm just sorry to see that that strategy never came forth, but I just want to remind our chairman that it's always a viable option as we proceed with this bill. I think that 'pay-at-the-pump' would really solve our problems in terms of the uninsured motorists and other faults of our auto insurance."

"I'm sure that you all received a little booklet authored by Andrew Tobias who has done an excellent job in bringing forth this 'pay-at-the-pump' option, which in my mind is really the way that Hawaii should go if we want to deal with this issue of 'no-fault' insurance."

"With that, Mr. President, I just want to reassure the chairman that I am available if he needs my assistance, being that we've been championing this pay-at-the-pump plan for the past eight years here in the Legislature. Thank you very much."

Senator Fernandes Salling then rose to speak in favor of the measure and stated:

"Mr. President, I rise to speak in favor of this bill with reservations."

"'Abolish Tort Liability.' For many today it has the same kind of appeal Shakespeare's famous suggestion in The Merchant of Venice has always had: 'First, kill all the lawyers.' Unfortunately, the good Senator from Kalihi's bill won't simply make tort lawyers an endangered species, it will wipe out a whole list of rights which you and I now have if we are faced with the loss of a breadwinner in our families, or if one or more of our loved ones should be crippled, maimed or disfigured in an automobile accident."

"I might digress here, Mr. President, by saying that the \$250,000 that we are getting in exchange for giving up this tort liability will not cover these kinds of accidents as was mentioned earlier by Senator Holt, but that is just one small part of the bill that needs to be worked on."

"For nearly 25 years the Legislature has looked to the 'no-fault' system as a cure-all for problems with the insurance industry and the court system. While we legislators have administered the medicine of more and more 'no-fault,' the patient has continued to get sicker and sicker. Our insurance premiums have risen higher and higher. In fact, since 1973 when we first enacted 'no-fault,' it has never come down. It has been on a steady rise up until this year when we were informed by the insurance commissioner that we have the highest automobile insurance rates in the country. Our insurance premiums have risen higher and it takes even longer for insurance settlements to be paid."

"And now we are told by the boy from Kalihi that the final cure has at last been found. But instead of getting rid of the medicine which is clearly only making matters worse, we are now told to drink the whole bottle, and overdose on the poison which has been making us sick in the first place."

"Instead of abolishing our legal liability system, I think we should try to abolish no-fault itself. Mr. President, I for one would have felt a lot more comfortable going into conference with a position such as that expressed by the good Senator from the Big Island (Malama Solomon) -- 'pay-at-the-pump.' At least with respect to the uninsured motorists, if we could get a grip on that problem, we might be going a lot further in solving the high premium costs than we would in this proposed bill.

"Let's start over with the system that made America's standards of justice and fairness the 'envy' of the rest of this world and put the no-fault industry of medical providers, insurance adjusters and bureaucrats out to pasture.

"In fact, in New Zealand, Mr. President, they have a very unique way of dealing with these problems. Rather than going to court, as I understand it, they have a board, a government board, that is set up. So in essence, they've gotten rid of the attorneys because it's this board that determines how much someone should be paid for an injury that they consider to be permanent or to have some sort of disfigurement or even a smaller injury. I might even suggest as we go into conference, that we might look at some of the smaller injuries that we see so many attorneys involved in, being handled by the small claims court and not allowing attorneys to get involved, if that is indeed the problem. Say, for example, that anything under \$10,000 dealing with insurance should be placed in small claims court. I believe the threshold for a small claims court today is \$5,000. We could raise it to \$10,000 for insurance claims. That might take care of the problem that we now see with the soft injuries because as I understand it, two years ago we voted on a bill in this body which we all thought was going to mandate the reduction of insurance by 15% tied into a verbal threshold. We are now told that this did not occur and therefore we did not see a reduction of 15% because what we came out of conference with, linking that reduction to what the House restored, is a monetary threshold. So, hence the 'great excuse' not to provide for any reduction, no less the 15% that at that time, we were all under the belief we were voting for to provide for the consumers of this state when we adopted that bill.

"If anyone is worried that our court system will be flooded with claims, I for one think they are up to it. Presently, the Court Annexed Arbitration System requires all suits with a probable maximum settlement value of \$150,000 or less be submitted to non-binding arbitration, another alternative, and that system seems to be working well today, in light of our insurance system of the no-fault that we have on the books -- non-binding arbitration under \$150,000. I'd be interested in seeing the stats on that and how many of those suits were solved, which of course would indicate just how much problems the attorneys are really causing here, but be that as it may, we have a lot of problems in addition to what has been expressed.

"I might mention also that I found it very interesting that we were getting rid of the medical fee schedule in this bill, and the peer review. To me, I could read it as if my insurance company did not agree that my doctor's bill for services rendered was indeed \$60, because now we don't have any medical fee schedule as this bill does. It's arbitrarily up to them to decide what to pay -- for instance \$25 or so. That's another problem I think we need to look at in conference.

"With our administration and insurance commissioner not in favor of this drastic, simplistic approach, let us at least proceed with caution and take additional time to consider all of this. Otherwise we risk getting hooked on something which is not a bold, new solution, but just

more of the same 'old medicine,' in large and dangerous doses. Thank you."

Senator Iwase, in support of the bill, then said:

"Mr. President, I thank the previous speaker for her comments. I rise to speak in support of the measure before us today, and before I start, Mr. President, we've alluded to two years ago, so if I may quote the great Yankee catcher Yogi Berra, 'It's deja vu all over again.'

"We're back to where we were in 1992 discussing no-fault reform, and many of the arguments we are discussing today, I think we had gone over before. I know that in 1992 what I had pointed out and would like to point out again today is that while we have characterized Hawaii's law on automobile insurance as the no-fault law, it is not a 'pure no-fault' law. We have never had no-fault in Hawaii. What we have had is somewhat of a hybrid.

"We have heard discussions about repealing the no-fault law and other alternatives. I think they're all worthy of exploration. But we have never tried, in the State of Hawaii nor in the United States, 'pure no-fault.' We have tried the other side of the spectrum which is no no-fault. And that is why we passed 20 years ago, or approximately 20 years ago, the no-fault law because we had a tort system in this state. If you re-read the committee reports, you hear our fellow colleagues from the past discussing the horror stories that occurred and what prompted them to move to enact a hybrid no-fault system.

"In 1992 we attempted to make changes to strengthen the no-fault law to move us closer to a no-fault state. Yes, as the previous speaker had mentioned, we did (the Senate position) move out a verbal threshold with the promise of a 15% reduction and yes it came back and out of conference. We passed a 15% reduction without the verbal threshold. The verbal threshold was very critical to that 15% reduction. And while we did not get the 15% reduction that we had anticipated because we did not pass the verbal threshold, we did see a reduction in premiums, not 15%, but a reduction.

"We had two goals in 1992 in attempting to strengthen the 'no-fault' law. The first and foremost was to reduce premiums. We did not hit the 15%, but we did hit a reduction. Last week, in regards to that reduction, an article in the Star-Bulletin pointed out that the National Association of Independent Insurers, based upon statistics provided by the National Association of Insurance Commissioners, showed that Hawaii was only one of four states in 1993 to show a reduction in premiums. All other states had an average increase of 3%. They attributed that reduction to the reforms passed by this Legislature in 1992.

"A second goal that we pursued was to stabilize the increase in premiums. If you recall back in 1992, there was one case, an egregious case, one company going in seeking a premium rate increase of 40%. We have not seen that since we enacted the 1992 reforms and we have, I think, at least met our long-term goal of stabilizing premium increases.

"And mind you, all of this has been accomplished without the verbal threshold.

"I think if we had passed, Mr. President, a no-fault law 20 years ago, I would not be standing here today quoting Yogi Berra. If we had passed the verbal threshold three years ago, I would not be standing here quoting Yogi Berra. But because we did not pass the 'pure no-fault' law in the 1970s, because we did not pass a strong verbal

threshold in 1992, I will close my speech, Mr. President, in support of this bill saying to you -- I quote the great Yankee catcher Yogi Berra, 'It's deja vu all over again.' Thank you."

Senator Fernandes Salling rose again and stated:

"Mr. President, just a brief response to the previous speaker's excellent Yogi Berra remarks.

"Isn't it lovely that even with the 3% reduction or the State of Hawaii being one of four that saw a reduction in the last two years, that we are still Number 1 in the nation as far as automobile insurance premiums!"

Senator Ikeda then rose in support of the measure and said:

"Mr. President, I rise to speak in favor of this bill and in doing so I would like to clarify some of the remarks regarding the 15% rollback and why it was never implemented.

"I believe the point was made that when the Senate bill passed this chamber, the 15% was tied to a verbal threshold, and that is correct. The final bill did not have a verbal threshold in it, but the 15% rollback did remain. The real reason, however, that the 15% reduction was not taken was because there was a ruling by a California court that struck down a rollback imposed in that state. And the court ruled at that time that businesses could not be denied a fair return. Based on that ruling, the insurance commissioner at that time, with the support of the attorney general, declined to enforce the law that we passed. That is the reason why there was no 15% rollback.

"I think many members of this body, including myself, decried that ruling. But when the attorney general and the insurance commissioner refused to take action, there was little else that we could do. Since that time, I think we've been proven correct because that California court ruling was overturned. So we find ourselves right back at square one.

"I believe that this bill before us will reduce rates. Basically, if you look at the pie chart that was presented by the current insurance commissioner, it indicates that approximately 28% of your premium goes towards bodily injury liability coverage. I don't recall what the percentages are for optional coverages such as under-insured motorist or uninsured motorist coverages, but all of these coverages would not be necessary if this bill became law and thus, premiums would be reduced. And it is for these reasons that I support this bill. Thank you."

Senator Holt then rose and stated:

"Mr. President, just a brief closing remark since someone quoted Shakespeare. Mr. President, I just want to say that all of your committee's work has been done with that compelling pressure to hold costs down, ever mindful that at the other end, benefits are affected. Perhaps Shakespeare shared in our predicament in 'Much Ado About Nothing,' when he said: 'The fashion of the world is to avoid cost when you encounter it.' I submit that this bill will achieve cost reduction to the public without sacrifices to the carrier or to at least 99% of the victims of accidents. Thank you."

The motion was then put by the Chair and carried, Stand. Com. Rep. No. 247 was adopted and S.B. No. 1762, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE,"

having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Aki, Gaulty, Tam).

S.B. No. 85, S.D. 1:

On motion by Senator McCartney, seconded by Senator Chumbley and carried, S.B. No. 85, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO CORRECTIONS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Aki, Gaulty, Tam).

S.B. No. 1912, S.D. 1:

On motion by Senator Bunda, seconded by Senator Chumbley and carried, S.B. No. 1912, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE RESIDENTIAL LANDLORD TENANT CODE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Aki, Gaulty, Tam).

S.B. No. 304:

On motion by Senator Ikeda, seconded by Senator Baker and carried, S.B. No. 304, entitled: "A BILL FOR AN ACT RELATING TO STATE BONDS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Aki, Gaulty, Tam).

S.B. No. 305:

On motion by Senator Ikeda, seconded by Senator Baker and carried, S.B. No. 305, entitled: "A BILL FOR AN ACT RELATING TO THE INCOME TAX CREDIT," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Aki, Gaulty, Tam).

S.B. No. 1566:

On motion by Senator Ikeda, seconded by Senator Baker and carried, S.B. No. 1566, entitled: "A BILL FOR AN ACT RELATING TO CONFORMITY TO THE INTERNAL REVENUE CODE," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Aki, Gaulty, Tam).

S.B. No. 1567, S.D. 1:

On motion by Senator Ikeda, seconded by Senator Baker and carried, S.B. No. 1567, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO DISHONORED CHECKS," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Aki, Gaulty, Tam).

S.B. No. 1575:

On motion by Senator Ikeda, seconded by Senator Baker and carried, S.B. No. 1575, entitled: "A BILL FOR AN ACT RELATING TO UNDERESTIMATION OF NET INCOME TAX," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Aki, Gaulty, Tam).

S.B. No. 1577, S.D. 1:

On motion by Senator Ikeda, seconded by Senator Baker and carried, S.B. No. 1577, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE PAYMENT OF TAXES BY ELECTRONIC FUNDS TRANSFER," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Aki, Gaulty, Tam).

S.B. No. 1578, S.D. 1:

On motion by Senator Ikeda, seconded by Senator Baker and carried, S.B. No. 1578, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO FEES IMPOSED BY THE DEPARTMENT OF TAXATION," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Aki, Gaulty, Tam).

S.B. No. 1763, S.D. 1:

On motion by Senator Ikeda, seconded by Senator Baker and carried, S.B. No. 1763, S.D. 1, entitled: "A BILL FOR AN ACT RELATING TO THE RELIEF OF CERTAIN PERSONS' CLAIMS AGAINST THE STATE AND PROVIDING APPROPRIATIONS THEREFOR," having been read throughout, passed Third Reading on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Aki, Gaulty, Tam).

ADJOURNMENT

At 5:42 o'clock p.m., on motion by Senator Ihara, seconded by Senator Liu and carried, the Senate adjourned until 11:30 o'clock a.m., Wednesday, February 22, 1995.