

SIXTY-FIRST DAY

Thursday, May 1, 1997

The Senate of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1997, convened at 10:12 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by the Reverend Alan Urasaki, Aiea Hongwanji Buddhist Temple, after which the Roll was called showing all Senators present.

The President announced that he had read and approved the Journal of the Sixtieth Day.

MESSAGES FROM THE GOVERNOR

The following messages from the Governor (Gov. Msg. Nos. 334 and 335) were read by the Clerk and were placed on file:

Gov. Msg. No. 334, informing the Senate that on April 28, 1997, he signed into law Senate Bill No. 1631 as Act 77, entitled: "RELATING TO EARLY CHILDHOOD EDUCATION."

Gov. Msg. No. 335, informing the Senate that on April 29, 1997, he signed the following bills into law:

Senate Bill No. 228 as Act 78, entitled: "RELATING TO THE DEFINITION OF CHIROPRACTIC";

Senate Bill No. 1115 as Act 79, entitled: "RELATING TO THE RETURN OF MERCHANDISE";

Senate Bill No. 1118 as Act 80, entitled: "RELATING TO PEST CONTROL OPERATORS";

Senate Bill No. 1486 as Act 81, entitled: "RELATING TO INSURANCE RATE REGULATION";

Senate Bill No. 1495 as Act 82, entitled: "RELATING TO MOTOR VEHICLE LEASE DISCLOSURE";

Senate Bill No. 1499 as Act 83, entitled: "RELATING TO UNFAIR METHODS OF COMPETITION";

Senate Bill No. 1515 as Act 84, entitled: "RELATING TO PEST CONTROL OPERATORS";

Senate Bill No. 1516 as Act 85, entitled: "RELATING TO MOTOR VEHICLE INDUSTRY LICENSING";

Senate Bill No. 1519 as Act 86, entitled: "RELATING TO PUBLIC ACCOUNTANCY";

Senate Bill No. 1521 as Act 87, entitled: "RELATING TO THE BOARD OF BARBERING AND COSMETOLOGY";

Senate Bill No. 1523 as Act 88, entitled: "RELATING TO REGULATION OF HEARING AID DEALERS AND FITTERS";

Senate Bill No. 1524 as Act 89, entitled: "RELATING TO DENTISTRY";

Senate Bill No. 1556 as Act 90, entitled: "RELATING TO HOMELESSNESS";

Senate Bill No. 1565 as Act 91, entitled: "RELATING TO GENETIC INFORMATION";

Senate Bill No. 1578 as Act 92, entitled: "RELATING TO GLASS RECYCLING";

Senate Bill No. 1715 as Act 93, entitled: "RELATING TO SECURED TRANSACTIONS";

Senate Bill No. 1814 as Act 94, entitled: "RELATING TO EMERGENCY TELEPHONE SERVICE"; and

House Bill No. 2239 as Act 95, entitled: "RELATING TO UTILITY LINES."

HOUSE COMMUNICATIONS

The following communications from the House (Hse. Com. Nos. 861 to 868) were read by the Clerk and were placed on file:

Hse. Com. No. 861, informing the Senate that the House, on April 24, 1997, reconsidered its action taken in disagreeing to the amendments proposed by the Senate to the following House bills and has on April 29, 1997, agreed to the amendments and passed said bills on Final Reading:

H.B. No. 1, H.D. 1, S.D. 1;
H.B. No. 133, H.D. 2, S.D. 1;
H.B. No. 872, S.D. 1;
H.B. No. 1485, H.D. 2, S.D. 2;
H.B. No. 1575, S.D. 1;
H.B. No. 1654, H.D. 1, S.D. 2;
H.B. No. 1655, H.D. 1, S.D. 1;
H.B. No. 1724, H.D. 1, S.D. 1; and
H.B. No. 1904, H.D. 3, S.D. 1.

Hse. Com. No. 862, informing the Senate that the House, on April 25, 1997, reconsidered its action taken in disagreeing to the amendments proposed by the Senate to the following House bills and has on April 29, 1997, agreed to the amendments and passed said bills on Final Reading:

H.B. No. 233, S.D. 1;
H.B. No. 728, H.D. 1, S.D. 1;
H.B. No. 777, H.D. 1, S.D. 2;
H.B. No. 780, H.D. 1, S.D. 1;
H.B. No. 793, H.D. 1, S.D. 2;
H.B. No. 912, H.D. 1, S.D. 1;
H.B. No. 1132, H.D. 1, S.D. 1;
H.B. No. 1216, H.D. 1, S.D. 1;
H.B. No. 1300, H.D. 1, S.D. 1;
H.B. No. 1388, H.D. 2, S.D. 1;
H.B. No. 1410, H.D. 1, S.D. 1;
H.B. No. 1450, S.D. 1;
H.B. No. 1510, S.D. 1;
H.B. No. 1593, S.D. 1;
H.B. No. 1641, S.D. 1;
H.B. No. 1645, H.D. 1, S.D. 2;
H.B. No. 1648, S.D. 1;
H.B. No. 1689, H.D. 1, S.D. 2;
H.B. No. 1715, H.D. 1, S.D. 1;
H.B. No. 1716, H.D. 1, S.D. 1;
H.B. No. 1818, H.D. 2, S.D. 2;
H.B. No. 1842, H.D. 2, S.D. 1;
H.B. No. 1854, H.D. 1, S.D. 1;
H.B. No. 1858, S.D. 1;
H.B. No. 1864, H.D. 1, S.D. 1;
H.B. No. 1893, S.D. 1;
H.B. No. 1900, H.D. 1, S.D. 1;
H.B. No. 1902, S.D. 1;
H.B. No. 2305, S.D. 1; and
H.B. No. 2308, H.D. 2, S.D. 1.

Hse. Com. No. 863, informing the Senate that the House reconsidered its action taken in disagreeing to the amendments proposed by the Senate to the following House bills and has on April 29, 1997, agreed to the amendments and passed said bills on Final Reading:

H.B. No. 480, H.D. 2, S.D. 1;
 H.B. No. 1086, H.D. 2, S.D. 2;
 H.B. No. 1247, S.D. 1;
 H.B. No. 1367, S.D. 1; and
 H.B. No. 1695, H.D. 2, S.D. 1.

Hse. Com. No. 864, returning S.C.R. No. 171, S.D. 1, H.D. 1, C.D. 1, which was finally adopted in the House of Representatives on April 29, 1997.

Hse. Com. No. 865, returning S.C.R. No. 182, S.D. 1, H.D. 1, C.D. 1, which was finally adopted in the House of Representatives on April 29, 1997.

Hse. Com. No. 866, returning S.C.R. No. 270, S.D. 1, H.D. 1, C.D. 1, which was finally adopted in the House of Representatives on April 29, 1997.

Hse. Com. No. 867, informing the Senate that the Conference Committee reports on the following Senate bills were adopted and that said bills passed Final Reading in the House of Representatives on April 29, 1997:

S.B. No. 5, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 37, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 58, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 130, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 135, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 138, S.D. 1, H.D. 3, C.D. 1;
 S.B. No. 141, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 152, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 165, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 175, H.D. 1, C.D. 1;
 S.B. No. 208, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 252, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 257, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 373, H.D. 1, C.D. 1;
 S.B. No. 375, H.D. 2, C.D. 1;
 S.B. No. 377, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 382, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 426, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 512, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 633, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 647, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 656, S.D. 1, H.D. 3, C.D. 1;
 S.B. No. 717, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 718, H.D. 1, C.D. 1;
 S.B. No. 817, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 835, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 870, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 927, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 986, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 989, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 991, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 1032, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 1069, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 1082, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 1114, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 1160, S.D. 1, H.D. 3, C.D. 1;
 S.B. No. 1191, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 1197, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 1266, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 1267, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 1268, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 1421, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 1487, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 1522, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 1535, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 1554, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 1571, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 1581, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 1589, S.D. 2, H.D. 1, C.D. 1;
 S.B. No. 1588, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 1618, H.D. 2, C.D. 1;
 S.B. No. 1619, H.D. 2, C.D. 1;

S.B. No. 1621, H.D. 1, C.D. 1;
 S.B. No. 1632, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 1683, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 1794, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 1879, S.D. 2, H.D. 2, C.D. 1;
 S.B. No. 1901, S.D. 1, H.D. 1, C.D. 1;
 S.B. No. 1919, S.D. 1, H.D. 2, C.D. 1;
 S.B. No. 1943, S.D. 1, H.D. 2, C.D. 1; and
 S.B. No. 1951, H.D. 2, C.D. 1.

Hse. Com. No. 868, returning S.C.R. No. 279, which was adopted by the House of Representatives on April 29, 1997.

ORDER OF THE DAY

FINAL READING

Conf. Com. Rep. No. 171 (H.B. No. 100, H.D. 1, S.D. 1, C.D. 1):

Senator Baker moved that Conf. Com. Rep. No. 171 be adopted and H.B. No. 100, H.D. 1, S.D. 1, C.D. 1, having been read throughout, pass Final Reading, seconded by Senator D. Ige.

Senator Baker rose to speak in support of the measure and stated:

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

"Mr. President, when we began this session we laid out an agenda to address the major issues that our constituents deemed critical to the success of our work. This session we were able to meet those challenges and the bill before us completes this agenda. Prior to this measure we had dealt with high-three reform; we had put to rest an issue that had divided not only our state but had distracted us (same-sex marriage); we provided a balanced budget (a difficult task because of the economic times we're faced with, yet we came up with a budget that was balanced, fair, and provided some economic stimulus for our state); and we also began to tackle some of the difficult issues regarding settlements of Native Hawaiian claims and ceded lands. And now we have an auto insurance reform bill before us. House Bill 100, C.D. 1, does in fact complete the agenda that we set for ourselves when we convened back in January.

"Mr. President, today we are poised to do what no Legislature has been able to do for the past four years, and that is -- to enact meaningful auto insurance reform legislation and provide relief to Hawaii's consumers. Putting this proposal together, I can guarantee you, was no small feat. Your conferees made a concerted effort to involve all parties in the decision-making process and worked very hard to strike a balance of fairness to attorneys, insurers, but most importantly for consumers. No side was unduly influential in this process. And in the end, I believe that we achieved a bill that strikes that delicate balance. And perhaps the fact that neither insurers nor plaintiffs' attorneys love this measure is testament to the balance struck by this bill.

"Mr. President, I feel it is important to note that unlike previous years and previous legislation in this area, we relied on our state actuary to assist us in developing this bill. After all, Mr. President, it is the actuary who is the designated expert on our state's insurance matters and he is our only source of unbiased expert opinion. It is our actuary, Mr. Simons, who has given us his stamp of approval on the bill before us and he is confident that the provisions contained in this measure will, in fact, produce savings of between 20 and 35 percent. In fact, I have letters from Mr. Simons confirming his analysis and I would like to enter his remarks into the Journal as further indication of how the bill will work, and its savings.

"Specifically, Mr. President and colleagues, this measure accomplishes the following:

The bill does not cost shift to employers or to the prepaid health care plans, but it takes advantage of the best of the plans by defining benefits as prepaid health define those benefits.

We addressed the cost drivers in the system and have enacted specific measures to control those costs. One of the things that Mr. Simons noted in his analysis was that claims padding has been the single major cost driver under the current systems. Claims have been padded by extra, unnecessary treatments in order for claimants to reach the medical rehabilitative threshold -- the monetary threshold -- in order to sue. We have repealed the monetary threshold. He also pointed out that the C.D. 1 adequately addresses that cost driver. He also noted that we have addressed the misuse of chiropractic and alternative care providers, which were a factor in padding claims so that individuals could get up to the \$13,900 and then get into the tort system. By narrowing personal injury protection benefits to those of prepaid health, eliminating the ability to pad claims, repealing the monetary threshold, and requiring a covered loss deductible from tort awards, we have, in fact, addressed the major cost drivers in the system.

We've made many of the costly mandatory coverages required under our current law optional. This is pro consumer and it produces savings. It now puts the consumer in the driver's seat to select the kind of automobile coverage the consumer needs. It's not mandated by the state that we carry all of these coverages if in fact we do not need them. Wage loss, death benefits, alternative care providers are examples of coverage that is now optional.

This bill establishes stringent fraud provisions to ensure that accident victims and their legal counsel do not make fraudulent claims and unnecessarily run up costs.

We've enacted a covered loss deductible concept whereby all tort recoveries are reduced by a minimum of \$5,000 or a maximum of a person's personal injury protection coverage up to the max of \$10,000, whichever is greater. This novel approach is designed to discourage frivolous law suits and yet at the same time set a reasonable standard for litigation on legitimate claims. In fact, Mr. President, we've taken the best features of no-fault because we still have first party personal injury protection coverage and the best features of a tort system because we provide adequate access to the tort system for injured motorists, but at the same time discourage frivolous law suits.

We've set a reasonable standard for litigation on legitimate claims. We've retained the verbal threshold so that one does not have to have lots of medical expenses, but yet might have a serious injury, and still be able to sue.

"This measure empowers the insurance commissioner to adjust rates in the future. That provision will provide for future savings. And more importantly, this bill will produce savings for consumers. One of our goals was to provide for a mandatory 20 to 35 percent rate reduction that was actuarially supportable. Our actuary supports the reduction called for in the C.D. 1. (The item that I've asked to be inserted into the Journal, I'll make it available to all of the Senators because it goes through Mr. Simons' analysis to show just where and how the reductions will be accomplished.)

"I acknowledge that there are concerns expressed by the insurance industry and others who are skeptical that this bill can produce the requisite savings. However, after having sat through countless hours of hearings and innumerable conversations with folks on both sides and working closely with the actuary, I believe that this bill can produce the expected savings. Colleagues, we have a measure that will make our system easier to administer and will produce significant savings for the consumers of this state. And, Mr.

President, in the final analysis this is what our charge was -- to bring rates down for our consumers.

"I encourage all of my colleagues to vote 'aye' on this measure. Thank you."

The Chair having so ordered, Senator Baker's insertion of the state actuary's letters are identified as ATTACHMENTS "I" and "II" to the Journal of this day.

Senator D. Ige also rose in support of the measure as follows:

"Mr. President, I'd like to just offer a couple of other brief comments in support of this measure.

"What has been missing in a lot of the discussions in the press on this is we have made a significant move toward our goal of 24-hour coverage for all of our people. By defining the medical portions of our auto insurance, we now move, if you will, to a 16-hour coverage where all of our people can be expected to get their health care taken care of. By defining the medical benefits in the same definition as prepaid health, we are able to get all of the cost savings by reduced administrative costs. At the same time, we get to benefit from all of the restructuring that has occurred in health care over the last five years. We get to take advantage of all of the cost saving measures -- the deductibles, the preferred provider organizations, the managed care organizations that have delivered tremendous savings for businesses throughout the state, and all of our auto consumers will now be able to get those same benefits and see that in reduced premiums. And most importantly, Mr. President, it adds a new gate keeper to the system of access to medical care and insures that care on behalf of the injured accident victims is both warranted and necessary to recover from those injuries.

"One other feature that we do have in this measure is we really do provide a cafeteria plan for all of our consumers. They can choose to tailor the coverage that they buy in their auto insurance policy to meet their specific needs. We provide options for wage loss. We provide options for death benefits. We allow consumers to choose to participate in managed care arrangements. We provide for alternative care, if they so desire. We do believe that this measure before us provides the best of all worlds for our consumers.

"And I think we would be remiss if we did not spend at least a bit of our time to thank all of those involved. Thomas Jefferson once said that ... actually I think it's Edison, but my quotations are kind of flimsy at this time. (Laughter.) A wise person once said that 'Genius is 1 percent inspiration and 99 percent perspiration.' And I did want to thank my co-chair and partner, Senator Baker, for her inspiration and perspiration in achieving this measure that we have before us.

"I would also like to thank the Majority staff office. I lost track of all the drafts we went through in arriving at this bill before us today. We had numerous drafts on our Senate proposal. We had numerous drafts in conference and they were always willing and able to not only do the research but do all of the technical, manipulative work to insure that we had the drafts and supporting information ready to go.

"And last but not least, we definitely would both like to thank our staffs for all of their commitment to helping us achieve what we have achieved this session. I think the committee had a tremendous workload before us and I think we responded to the challenge.

"We would also like to thank the insurance commissioner, past, and the insurance commissioner, present, as well as Mr. Martin Simons. This truly was a collaborative effort. The solution before us did not appear miraculously, but was created out of our desire to take the best of both proposals and create a workable proposal that can save consumers money and can be supported.

"In closing, Mr. President, I would just like to say that there are critics and there will always be critics whenever the Legislature deals with tough issues. But we are confident that this proposal before us is the best for all the people of Hawaii. It addresses all of the cost drivers in the system. It delivers savings for the people of Hawaii, and most importantly, Mr. President, it provides a solid foundation for a new partnership of attorneys and insurers and legislators and consumers so we can address the few remaining issues in our auto insurance system that continues to plague us -- uninsured motorist, to name one.

"I urge all of my colleagues to vote in support of this measure. Thank you."

Senator Iwase rose to oppose the measure and stated:

"Mr. President, I rise to speak in opposition to the bill.

"Before going on, I do want to thank the co-chairs. I know this has been a tough issue. We have dealt with the no-fault issue longer than we've dealt with the same-sex marriage issue, so our vote yesterday on the same-sex marriage was a journey ... and it was. This was a trip to Pluto and we finally, perhaps, will land someplace but I hope that it's a safe place.

"Mr. President, first of all, I think we ought to, when we're looking at this bill -- and we should have been doing this all along -- this is not about attorneys. This is not about insurance companies. This is not about bad-mouthing either one. This is about the consumer. This is about their bills, the struggles that they go through.

"Yesterday, I was painting graffiti at a park and a city employee came up to me. He happened to be cleaning the bathroom and he said, 'Hey, bra, what you guys doing up there with the no-fault stuff?' I said, 'Well, we're going to vote tomorrow. We're going to vote tomorrow.' He said, 'All right, eh, do something, eh.' And that's what it's about -- it's about him; it's about people like him.

"Lawyers are not ambulance chasers with Pavlovian reactions to sirens, nor are they representatives of the American Red Cross. And insurance companies are not representatives of the worse in capitalism and corporate greed, nor are they non-profit charitable organizations. They're businesses and they run for profit. They operate off of that. And in those businesses you run the gamut of character and ethical traits, good and bad. So you'll see abuses and there'll be fraud, but there will be also good attempts to serve the client. So let's get away from this attempt to sidetrack ourselves from what it's really all about.

"And it's about the consumer. It's about premium reduction. But just as important, which has been missing all of these years as we talked about no-fault, they demand honesty from us. When we look at the plans that were before us, what are you getting? What are you losing? We've never told them what they're going to lose. We've always talked about the premiums. It's not enough for us to leave this place saying, 'We passed auto reform.' They demand more than that from us.

"It is wrong for us to hold out false promises of reduction and dangle it before them, because they need these reductions, figures which may be inflated but which may come at the cost of reduced benefits. In this regard I want to address a point about Mr. Simons. Mr. President, four years ago we passed a very strong verbal threshold bill. We mandated a mere 15 percent rate reduction. We could not get support from the Insurance Division, and I assume its actuary, for 15 percent. And so the insurance commissioner told us when we passed that bill, 'We're not going to enforce the mandate,' because of a federal lawsuit, I believe, out of Arizona. But today, today, with a weaker reform package, Mr. Simons says we can support a 20 percent rate reduction. And I have questions about that. I

have problems about that because he was not there, and the Insurance Division was not there four years ago when we could have achieved real savings.

"To be honest with the consumer, Mr. President, I assume you have a letter, which we all should have, from State Farm Insurance Company. It's addressed to all of us. I want to quote from this letter in case people in here haven't gotten it ... real brief.

"We have been asked for our reaction for the pricing information relating to House Bill 100, C.D. 1. Our actuarial department estimates that those who currently carry the minimum amount of coverage required by law and who continue to do so under the new system will see an average 13 percent cost reduction. This is significantly less than the 20-35 percent mandated by the bill.

"Furthermore, it is important to note that although there are some cost-saving features in this bill, most of the savings are due to a reduction' -- reduction -- 'in mandated minimum coverage. This means individuals who carry higher limits and desire the same amount of coverage as they have today will see little savings' -- little savings -- 'under the new system. In fact, some could even see price increases.'

"By the way, I am going to quote from an example (I didn't come up with this example, it was somebody else), 'Previously we were requested to price an example of a policy holder with a 1993 Honda Accord DX living in Mililani and working in Downtown Honolulu.' We had this example last year -- it wasn't me. Using this same example, if the policy holder carries \$100,000 BI, \$50,000 property damage, \$50,000 PIP, \$100,000 UM/UIM and comprehensive and collision coverage with a \$250 deductible, our actuary estimates the person could see anywhere from a 7 percent reduction -- 7 percent only -- to a 3 percent increase, depending on the PIP option selected. If a person desires to continue with the \$50,000 PIP coverage with options similar to today, the person will see a 3 percent increase. If the person reduces the PIP coverage to a minimum \$10,000, which is what's in the bill, without selecting the optional wage loss and death benefits, we estimate a 7 percent reduction. Why is there a lack of cost savings? Because the cost of BI liability will go up under the new system. In other words we anticipate more BI claims and more lawsuits. The dollar threshold is reduced from \$13,900 to \$5,000, thus allowing lawsuits for more serious injuries.

"Mr. President, in the example, the hypothetical posed in the letter, we can talk about 20 to 25 percent off the basic minimum coverage. How many people in here have the basic minimum coverage only? How many in here, just among you, have purchased more? I have. I brought my policy. I have a \$100,000 BI coverage because I want to be protected from a lawsuit. I come from a community which is a middle class community. We own homes, and if we are sued, we don't want to lose the home.

"This bill will take out wage loss coverage. How can a middle class person afford to buy back or leave alone wage loss coverage? So when we talk to the consumer out there about what we gained by this bill, think about what policy you have today, what effect that's going to have on the consumer.

"This bill before us achieves some reduction but at the cost of reduced benefits of the basic policy. It reduces your medical coverage from \$20,000 to \$10,000 but keeps in place the protection you have for lawsuits. Where is the emphasis, then, in the bill? On the insured's injury or a plaintiff's injury? It eliminates wage loss coverage, funeral expenses, death benefits -- it is now going to be an option.

"If you are wealthy, wealthy, or if you are poor, you have no problem with this bill ... no problem whatsoever. But if you are among the vast middle class -- those are people in our districts -- struggling to make ends meet, this bill will not help you.

You will not see a 20 percent reduction -- let's be honest about that! You may even see an increase -- let's be honest about that! If you are middle class, you own a home, both adults working to make ends meet, you probably already purchased, as I did, more than the basic coverage. You purchased higher BI's. You need wage loss coverage. This bill will not bring a reduction in premium. It may even bring a premium increase if you purchase back -- just purchase back -- what you've got today. Wage loss -- who's going to tell the consumer in your district don't purchase wage loss coverage. You know what they're going through if they own a home, if they're both working, if they're latch-key families. Funeral expenses and death benefits ... well, perhaps, given what the ramifications of this bill are, it might be good to be buried, who knows.

"We had before us, Mr. President, a number of good bills which would have brought real rate reductions off the basic policy -- basic policy -- and therefore off the broader policy if you buy back the options. For example, the pure no-fault bill that we passed two years ago -- vetoed by the governor -- 40 percent reduction; the O'Connell choice bill, 45 percent reduction if you opted into the no-fault selection system; Senate Bill 1812, S.D. 1 -- the original version we had -- 40 percent reduction of the basic coverage. All these bills had their strengths and weaknesses, yet the positives outweighed the negatives: much greater premium reductions off the basic; good reduction of premiums even if you purchased back the optional coverage; no threat of premium increase when you purchase optional coverage. It retained, if not strengthened, the underlying philosophy of the present no-fault system, unless we've changed it in this bill, to reduce lawsuits -- eliminate 90 percent. Have we changed it? I don't know. If we have -- major policy shift -- there ought to be an explanation about why.

"We must be candid. We must be sincere. We must be honest with the public, with our consumers. We have this solemn duty and obligation. We must tell the public the truth. Yes, there will be a rate reduction off the basic coverage. Yes, there will be a loss of present benefits such as wage loss and funeral benefits. And yes, to purchase back the optional coverage you now have, your premium reduction may be only a single digit and definitely not 20 percent, or you'll see an increase.

"I say all of this, Mr. President, to the constituents in my district. I hope all of the rest of you do that. Like them, I purchase and will continue to purchase optional coverages and for me, like them, this is the reality. This policy I read from -- \$1,436 a year for a 1986 Chevy Astro van -- my premium, if I buy back my optional coverage and maintain what I have, will go up to \$1,479 a year. If I accept the reduced benefits -- elimination of wage loss and funeral expenses, reduced PIP -- my premium will drop a mere 7 percent. I will save \$100 a year. I'm not going to my consumers, my constituents, and tell them that's all you're going to get when they expect a 20, 25 or 35 percent reduction -- because that's not true!

"Because this bill leaves the vast middle class with poor choices, Mr. President, I urge my colleagues to vote 'no.'"

Senator Solomon rose in opposition to the measure as follows:

"Mr. President, I also will be voting 'no' on this bill and I'd like to speak in support of the remarks made by the previous speaker.

"Mr. President, I am tired, tired of standing on this floor and listening to the co-chairmen say to me that we have to complete the agenda. I never ever thought, Mr. President and fellow colleagues, that I would be standing here speaking in support of the insurance council. Is it true, what a letter to our legislators said about the auto insurance? Is it true, Mr. President, that this bill reveals some critical short and long-term effects on Hawaii's auto system? Most of the cost drivers were not

adequately addressed. Is it true, Mr. President, that we feel a responsibility to inform you and all Hawaii's drivers that this bill may not provide the level of rate reductions promised by this Legislature?

"Mr. President, I have great concerns about this. My district has the highest unemployment rate and it seems that I am forcing my people, Mr. President, to violate the law, to become criminals because they cannot afford the insurance policy that is being demanded of them because it simply is mandated by law. I am sick and tired of all of this 'shibai,' all of this nonsense. And who is suffering? The consumer. Who is suffering? Mom and dad. Who is suffering? Our kupuna. Who is suffering? Our children.

"Yes, Mr. President, I'm emotional about this. Why not? I've been in this body since 1982 when we first debated this. And to have our co-chairs stand on this floor and use the rationale -- to complete our agenda -- that we support this legislation, does absolutely nothing, nothing for the people of this state. I am angry, very angry.

"We had a bill, Mr. President. We had a bill that mandated a 45 percent roll-back. But what happened, Mr. President? The governor vetoed it. Mr. President, why don't we rename this bill ... a lobbyist jokingly told me, you know bills are just titles ... so why don't we rename this bill, Mr. President, 'The Lawyer Enactment Act,' 'The Lawyers Employment Act'? So for the next few years they're guaranteed jobs in this state. They tried to do it to the Hawaiians by blaming the low municipal bond rating on us. So why not? Why don't we stand up and be counted and say, this is who we're taking care of. We're taking care of the lawyers in the State of Hawaii. Why don't they do what the chiropractors did? Move to another state if they can't do business here.

"Mr. President, I'm asking you this. The Speaker has announced that he is contemplating a special session. He mentions privatization. He makes no mention of a matter that should be of primary concern at this time -- auto insurance -- because we mandate our citizens to buy that. Mr. President, I request that this body go on record today, go on record today that if there would be an extension of our legislative activity that certainly auto insurance be on our agenda during that period. Our citizens want and deserve decisive action in this field."

At 10:44 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 10:46 o'clock a.m.

Senator Bunda rose to inquire:

"Mr. President, in reference to the previous speaker's remarks, would there be any reconsideration in terms of recommitment?"

The Chair responded:

"There is no consideration for recommitment. We'll be voting on this measure today."

Senator Bunda then said:

"Thank you very much, Mr. President."

Senator Slom rose in opposition to the measure and said:

"Mr. President, I rise to speak against the bill.

"I do so with great feeling because I attended every informational briefing, every public hearing, every meeting, and every conference meeting that was open to either the public or to the Minority. And first I want to say that the co-chairs worked extremely hard, honestly, diligently, openly. I think the

problem is, however, that we had good bills and we had good positions and watched those positions evaporate as everybody was concerned about passing something.

"Now, my personal position which I said on several occasions and in several different bodies was, No. 1, that automobile insurance in the State of Hawaii should not be mandatory. It should be voluntary like other forms of insurance. And my secondary position was, if we couldn't have that, then people should have a choice, and we should have a dual system. And those people who wanted tort should have tort. And those people that wanted no-fault should have no-fault. Knowing full well the consequences and the responsibilities for their choice. And that didn't get anywhere either.

"And my third position was that if we absolutely, positively had to have any kind of mandate, it should be a minimum cost mandate with a cafeteria style approach -- as much options as possible -- guaranteeing, however, that there would be real and meaningful rate reduction because, after all, that's what's held us up for three years and that's what we all discussed. That's what we wanted.

"It was also imperative from the beginning that there would be no cost shift from the auto insurance to an employers' prepaid health care. And we maintained that position and the co-chairs are to be congratulated because they said it over and over and over again until we got to the final stage -- the final conference which, by the way, was the ninth conference draft or the ninth draft of the bill. And while there isn't mention in the conference report, the committee report that mentions no cost shift, as I learned on this floor just two days ago, committee reports don't mean anything. The intent of any legislation is found in the body of the bill and there is nothing in the body of the bill that says specifically no cost shifting.

"Now a lot has been said about the importance of our South Carolina actuary as if one individual is infallible. And it's interesting to note that he is just a man -- he is a good man, I'm sure -- but just because he makes a pronouncement from South Carolina does not make it so.

"Also, the voter-rejected, governor-appointed current insurance commissioner, who was busy getting up to speed during all of these hearings and learning the insurance business, has also given us promise that everything would be okay.

"But one of the reasons that we allow bills to sit for 48 hours is to give us the time to carefully and dispassionately and objectively examine what is actually going to occur ... not what we would like to occur ... not what we would want to make us feel better with ... but what will actually occur. From my past business experience and my economic background, I have analyzed every portion of this bill. And while we said initially that if we could guarantee a \$20,000 limit, then we could guarantee no cost shifting. We saw that \$20,000 go down to \$15,000, the \$15,000 go down to \$10,000, and I do not have the confidence that we are going to have those rate reductions. And more so, I am concerned that we are going to have greater problems.

"Now, I am neither an apologist for the insurance industry nor for the lawyers. And as a matter of fact, with all this talk about partnerships I would rather see the marketplace -- not a partnership between lawyers, insurance executives and certain legislators -- decide what's best for the consumers. I would rather let the marketplace decide that. But if you're going to listen, at all, to the insurance people, they're the ones that are telling us that these figures do not do what this bill says it will do. And from that standpoint I think that we are offering false promises.

"Too many of us here are quick to pat ourselves on the back. We want to say that we've accomplished everything, but what have we really accomplished? It is the substance, not the intent,

that is extremely important. And I think that we can see now that what's going to happen is that if, in fact, we have basic coverage only, we will realize a savings less than what we was promised, less than what the Senate position had been right up until the end of the session. But if we are like 99 percent of all of us, we will have options. The coverages that we want or feel that we need will either mitigate the savings entirely or increase our cost.

"We must be honest to the consumers. We always talk about the children. We talk about the consumers. We talk about these people as if they don't have the ability to read between the lines. Well, our constituents do. They've asked us hard questions and that's forced us to look at every line and every dot in this bill. And this bill does not do what we wanted it to do because we compromised too far. We should all be willing to compromise to a point, not our principles, Mr. President. And I'm afraid that's what this final version has done. And in that respect, we should all take more time and pass out a well reasoned, good bill than just to pass something out that we say will do what in fact most of us know in our hearts will not be achieved.

"Thank you, Mr. President."

Senator Kawamoto, rising to speak against the measure, then stated:

"Mr. President, I rise in opposition to this bill.

"Mr. President, as we walk through our communities listening to the concerns of the community and our constituents, besides same-sex marriage, the issue of automobile reform and lower premiums were in the forefront. Many of us have provided an opportunity for a choice bill. In fact, my choice bill was submitted after talking to you, Mr. President, and I'd like to give you credit for the idea of the cafeteria type insurance bill. As we have gone through the session I read it with reservation as the bill passed through the Senate, hoping that that bill could be the best it can be.

"Well, Mr. President, as we stand today, that bill today is not what it could have been. It could have been for the consumers, not anyone, the insurers or the lawyers, but the consumers who pay the premiums. And I have a community that may be lower in stature from the Mililani area, but we also provide and ask for options -- options to protect our homes, options to protect ourselves, the family, and options to protect our way of life.

"Therefore, Mr. President, I urge all my fellow colleagues to vote 'no' on this bill, hoping that we can get out a bill that is addressing the consumers and the people that pay the bill to pay for these premiums.

"Thank you very much."

Senator Sakamoto also rose to speak against the bill and said:

"Mr. President, I also rise in opposition and I'd like to reiterate all the points that were made and I agree with most of them.

"Mr. President, firstly, I'd like to thank, yes, the inspiration and perspiration of the committee. They did a good job studying the issues and we had a good bill. Yes, we had a good bill, good savings. But I believe, just as in workers' compensation reform, Mr. President, the major cost driver, the major cost driver in this system is litigation -- litigation. And the \$13,900 limit is lowered. Your committee report says, 'For example, a \$9,000 recovery that includes covered personal injury protection benefits of \$7,200 and \$1,800, down to \$5000 people can sue. Mr. President, I believe people buy insurance for protection, not for lawsuits. We need to get rid of the lawsuits.

"I kind of take offense at this clause in your committee report that says, 'Create a fair and equitable system which meets the needs of all parties concerned, including drivers, insurers, and attorneys.' I believe it should be 'for drivers,' not 'including drivers.' This is the system for the drivers, not insurers and attorneys, Mr. President -- it's there to help the drivers. In this system we create more lawsuits. There are no real savings in that regard.

"If this bill were to fail, Mr. President, I believe the consumers can still benefit. This body passed revisions to the medical fee schedule. One insurance company already said that means 9-plus percent reduction. Other insurance companies were holding off, waiting for what would happen in this session. So I believe should this bill fail, which I hope it does, there will be in the neighborhood of 10 percent just on the medical fee schedule alone. Chiropractic services in the medical fee schedule are more limited than what this bill proposes. This bill proposes to give chiropractors more opportunity, not less. Where are we going? We need to address the true cost driver, Mr. President.

"In our Transportation Committee with the Senator from God's country and other members with the help of the Judiciary Committee, we passed safety measures -- graduated driver's licenses to take care of teens or young drivers with little driving experience, implied consent, zero tolerance, issues like that, Mr. President. Pickup truck limits -- those are safety issues. Those will reduce premiums. Those will help consumers, overall -- safety measures. Just as in workers' comp, you have safety measures. But we need to address litigation, the main remaining factor that is the cost driver, not to give more litigation. We need less, Mr. President.

"And yes, Mr. Simons in workers' comp, and I'm familiar with Mr. Simons coming before our committees and saying, 'I don't know the cost. We don't have the data.' I object to him saying now, 'Oh, we're the first in the nation to do a creative system and I have this marvelous data.' That is not consistent and that is not the job of our state actuary to come up with a new system. His job is to price based on the past! That's what actuaries' jobs are! They need to do their job all the way along and give adequate pricing, not at the end claiming to be an expert, Mr. President.

"I vote 'no,' and I say if this bill goes down there'll still be savings, savings that the voters can live with, that the constituents can live with, that the drivers can live with, based on the medical savings that are already in place from the workers' comp reform medical fee schedule reform and let's take care of litigation. And yes, let's have reform. Let's not have this, we did it and have the voters, the public and everybody say what happened, Mr. President. Let's be accountable."

Senator Tam rose in opposition as follows:

"Mr. President, I stand before us on this difficult issue to stand in opposition to this bill.

"Everyone gave their various reasons for why 'yes' or 'no' on this bill, and we all want, in terms of a consumer oriented bill, the cost savings for the consumers in auto insurance. Let me give you another point of view.

"First of all, let me say this, in the bill it says that there are several facts: (1) it lessens the medical benefits and other benefits which we are all used to and which is a given, quite frankly, in today's society to protect one's self; (2) it offers a cafeteria plan which will cost more to protect one's self (otherwise called 'riders'). For example, the loss of pay due to a car accident when you're out of work. Everybody needs something to live on when they're in the hospital or recuperating; (3) supposedly a 25 to 35 percent reduction of the basic coverage. Now, I say basic coverage. Keep in mind that there is a bill that proposes to lessen the coverage that we all are

used to. So you have a basic coverage like the welfare recipients have and I know for a fact, when I got hit by a driver who was on welfare, their welfare coverage is real basic. Imagine we're going to have this basic coverage for everyone, no matter what kind of assets you have; and (4) it opens the door for more litigation.

"Let me give you an example in terms of what can happen from a sales point of view. I'm addressing this from the sales point of view in terms of how it can cost the consumer more. We all are used to going to a car dealer to buy a brand new car or a second-hand car. Take a brand new car -- you go to a car lot and you look at the car, and you say I want that car and it costs \$15,000. And I believe one of the dealers does this. He says, this is your basic cost of the car. Now if you want other things, you have to add it on. The other things like, for example, air conditioning, the color of the car, the window tint, safety locks for children, quality tires rather than just poor tires, and of course the all famous tax and license. So what do you come up with basically? Instead of paying \$15,000, because the salesman did a good job in terms of selling you more of these riders, your cost of the car will come up to maybe \$25,000, which is not really what you wanted to do. You wanted to spend only \$15,000 or maybe a little bit more, but not \$25,000.

"As one in sales, if I may, I can see that happening to our consumers. The salesperson out there will approach a consumer and say to the consumer, well, this is your basic coverage, but keep in mind you have a home, you have children, you have a job; you need these other riders because otherwise when you get into a car accident, you're not well, what are you going to do? How are you going to survive? So what happens is that the salesperson presents a scare tactic in order for the consumer to buy more insurance coverage. And I can see this happening, quite frankly. And if I may, being a salesman myself, it leaves the door open for a salesperson to do that. Do we really want that to happen? I don't think so.

"I'm really worried about this bill, to be honest with you. We say 25 to 35 percent reduction in terms of the cost of the insurance, but I'm going to be asked by the consumers in my district and I know by other consumers out there in the community statewide, can we guarantee? And quite frankly I'm going to say, no, I cannot guarantee. They'll say, why did you vote on this bill, then? I want a guarantee. And I'll say I'm sorry. And they're going to say, well, if you can't guarantee why did you do it? It's going to go around in circles, to be honest with you.

"If I may conclude, this bill in essence, when you think about it, is an insurance bill -- an insurance company bill. Why? Because it generates more money. What the insurance companies would do, basically, is offer this basic plan and have these riders. Now, instead of paying for loss of wages, maybe about \$50 more in premiums, as an example, you're going to pay three times that amount, \$150. Now, insurance companies are no fools. They're going to make up their losses. Because we're going to mandate basic coverage, they're going to make up their losses in riders. This happens even with medical plans at HMSA, Kaiser, and so forth. I can see that happening to our auto insurance.

"It's also an attorney oriented bill. And I have friends who are in insurance, business or attorneys, and they are going to get upset with me. But the truth is that this is also an attorney oriented bill because it opens up the litigation. Attorneys are crying right now for jobs and the only leverage that they have out there is to say, I'm going to sue the other party. Everybody wants money. This is a greedy world we live in right now. The economy is down. People say, I want money in my pocket, so they're willing to sue everybody.

"The consumers want a guarantee to lower savings in auto insurance. And I cannot offer that guarantee, personally, nor as a Senator in the State Senate. We need a formula for the

insurance cafeteria plan or the riders plan. Why not put a formula together whereby the insurance companies cannot charge these outrageous prices for riders. We never thought about it, I guess, but maybe we should re-look at it.

"Thank you very much."

At 11:07 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:12 o'clock a.m.

Senator Anderson rose to oppose the measure as follows:

"Mr. President, I'll try to be very brief. I, too, will be going 'no' Mr. President, and I'll try to give some other reasons than some of my colleagues. I agree with everything and I'm very proud of Senator Sakamoto. I thought only the Portuguese got angry, or Hawaiians, but he made us all proud. He got a little 'habut' there.

"But let me say, Mr. President, the other evening I ran into a lady that said, with all the reservations that you had against the budget, yet you voted 'aye.' On that particular measure there was a lot in there for our constituents. I'm voting 'no' on his particular measure, Mr. President, because I don't believe there's enough there for the constituents.

"I can remember that the lieutenant governor, when we fought this issue a few years ago, said that by lowering the threshold we may be in court more often, but we should be able to save. And I don't think that's true. What we have not discussed is that the other day in settlements against the state, 85 percent are settled out of court. If in fact we lower that threshold, how many of these people are going to be sued? But they're going to be settled out of court so we won't know too much, but their insurance could go up. Now, my understanding when we met with the two chairmen, and I give them a lot of credit, I know they've worked hard, but my understanding is that there is a cap that we can work on with the insurance companies. But there's nothing for the attorneys. There's no way that we can find out how many times they're taking us to court, how many times they're settling out of court, what kinds of pressures they're putting on the insurance companies to be a cost driver. We won't know that and I'm worried about that factor.

"Also, Mr. President, I understand that when we were supposed to have the roll-back some years ago, I don't think that when we mandated 20 percent that there was a lot of new policies written. And a lot of people did not get any roll-back. This year, I understand with what we have there might be a constitutional problem, and that, too, worries me.

"I think Senator Malama was right when she said that the Speaker had already, on television, said that there is a possibility we'll have to be called back to session because of privatization. Then why don't we just go ahead and not do this bill because it's not going to help our consumers and we mandate that they take insurance, and we'll come back. Give us a date. Extend this one, go back June 1 or whatever.

"In closing, Mr. President, I'd like to say that for my people that elect me in the windward side, Waimanalo and Kailua, and also your families and friends that I represent in that district, I will be voting 'no.' But also because I'm a State President -- State Senator, excuse me (laughter). You think I wanted your job there for a minute. Nah, I wouldn't want to be in your position, Sir (more laughter) -- but as my responsibility as a State Senator, I will also make sure that my friends and family that live in your districts will know that I am also voting 'no' for them because I don't believe that this particular bill is going to help them in any way.

"Thank you very, very much, Mr. President."

Senator McCartney rose to support the measure as follows:

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

"Mr. President, our current no-fault system is a system that has lost its way. It is sick and not well. The bill before us puts it back on track. It's the surgery needed to bring it back to health. Mr. President, there's no magic wand to solve the problems and the forces that prevail on this issue in our society.

"I believe, Mr. President, that our co-chairs worked hard, diligently and they did their best to come up with a bill that isn't a bill for attorneys, isn't a bill for insurance companies -- it is a bill for consumers and the public. This bill provides the reform that our present system needs, and I urge all our members to support the bill.

"Thank you."

Senator Metcalf rose to support the measure and said:

"Mr. President, I ask that the Majority Leader's remarks be included in the Journal as my own, and in addition I have some fairly extensive remarks in support of the measure that I'd like also to be inserted in the Journal.

"Thank you."

The Chair having so ordered, Senator Metcalf's remarks read as follows:

"Mr. President, I rise to speak in favor of H.B. No. 100, C.D. 1. I wish to commend co-chairs Baker and Ige for their hard work in achieving significant reform of our automobile insurance system, based upon actuarially sound principles.

"This reform measure reduces insurance premiums for all consumers, gives greater choices to consumers, places significant limitations on litigation, provides insurance fraud laws that insurance companies have requested, and allows the Insurance Commissioner power to adjust rates when carriers realize excessive profits.

"Insurance companies have started an expensive media campaign to undermine this reform proposal, which would end the excessive profits currently enjoyed by insurers. Some companies claim that this reform measure will not result in lower premiums for consumers, but will increase premiums for many consumers. This is a tactic which has been used before. When the Legislature passed workers' compensation reform in 1995, the state actuary projected rate reductions of more than 25 percent. The insurance industry claimed that the workers' compensation reforms could not achieve those savings. In fact, those workers' compensation reforms resulted in a 27 percent rate reduction and three new companies entered the Hawaii market. Further reductions from the 1995 legislation are predicted for the next few years.

"In 1992, insurers agreed to changes in the no-fault law calling for a 15 percent rate reduction. The state actuary was not consulted and did not have the chance to analyze the rate reductions that might be realized from that proposal. As it turned out, the insurers were wrong again and the 1992 amendments produced virtually no rate reductions for most consumers.

"The lesson to be learned from the 1992 and 1995 experiences is that there is no substitute for sound actuarial analysis by the independent state actuary. Promises or representations by insurance companies, or any other special interest, cannot serve as the basis for mandatory rate reductions, unless verified by the independent state actuary.

"The state actuary has reviewed claims made by insurance companies that this reform measure will not produce the anticipated savings and has determined that these claims are not

accurate. The state actuary remains confident that the rate reductions required in this reform measure are defensible and can be enforced.

"It is critical to have mandated rate reductions which are actuarially sound in order to achieve reduced rates which are fair to both consumers and insurance companies. Insurance companies have enjoyed record and excessive profits for several years now, but with few exceptions have made little effort to voluntarily reduce rates to reasonable levels. Insurance companies in Hawaii make twice the profit as the national average, with only Rhode Island enjoying profits as high as Hawaii. Insurance companies in Hawaii have the best loss ratio, paying out less of the premium dollars collected for claims than any other state in the nation. Yet Hawaii has the second highest premiums in the nation.

"Some insurance companies have criticized this reform measure as requiring a reduction in benefits to consumers. Nothing could be further from the truth. This reform measure makes certain coverages, such as wage loss, optional. Drivers who don't need wage loss, such as retirees, students, those with personal disability coverage, or those with sufficient employer provided TDI, sick leave and vacation benefits will no longer be forced to buy coverage they do not want nor need. Thus the claim that this bill reduces consumer rights is wrong. It in fact increases consumer choices so consumers do not have to buy duplicate coverages and can thereby lower their insurance premiums.

"Finally, insurance company calculations on the savings provided in this reform measure are based upon their present rates. These rates, of course, are already inflated to produce excessive profits. Therefore the savings projected by the insurance companies must be increased to account for those excessive profits which will no longer be allowed under this reform measure.

"Mr. President, this is a sound and fair measure. In hearing the objections voiced by some amateur actuaries on the floor and special interests, against it, I am reminded of Shakespeare's quote in MacBeth, Act 5, Scene 5, which reads in part 'Full of sound and fury, signifying nothing.'"

Senator Kanno rose to support the measure and stated:

"Mr. President, I'm rising to speak in favor of the measure.

"Five years ago, my wife was in a serious accident. She was at a traffic intersection in Waipahu. When the light turned green she proceeded across the intersection. This other driver did not see the red light and hit her broadside at full speed. She had serious injuries and to this day has sharp pains in her neck that she struggles with. Was the insurance company there to help and support my wife? No, they were not. She was an innocent victim.

"Through the help and support of an attorney she was able to get a settlement out of the insurance company. I am not an attorney, but I think that attorneys play a vital role in our society to fight for the rights of our residents. If insurance companies are against this bill, Mr. President, I fully support this measure.

"Thank you."

Senator Iwase rose in response as follows:

"Mr. President, in response to the previous speaker, I appreciate his comments.

"The injury to someone in an auto accident is something that we all are concerned about. I'm concerned about it, as well. Everyone here is. But with respect to this specific example that he cited, or the kinds of examples he cited, presently the no-fault law has unlimited BI. So if there is an auto accident

involving multiple parties, there could be decent, fair recovery. This bill caps it at \$40,000 per accident. If there are multiple parties involved in an accident, your recovery is lower. Your recovery is not fair. Your recovery may not be enough.

"So, with respect to the lawsuit issue, study that portion of that bill because there is not fair recovery for an injured victim.

"Thank you."

Senator Fernandes Salling rose in opposition to the measure and stated:

"Mr. President, I rise to speak against this bill.

"I'd like to acknowledge the hard work done by both the co-chairs of the committee. But I'm not willing to go home after the many years that we have been fighting here on the floor and tell people on Kauai that yes, I really do believe you're going to see the kind of rate reduction that's being promised by this Legislature. I can't say that in all honesty to them.

"We have seen in the past what the insurance companies have done when we have said we are going to mandate a reduction. We've not been guaranteed any such sort reduction. We've not seen any kinds of reductions along those lines, and until such time that we can say to our people in all honesty that that is what in fact they will be getting from us, from the Legislature, through our attempts for auto reform, I cannot support this measure."

Senator Baker rose again in support and stated:

"Mr. President, I rise for a few additional remarks in support of this measure.

"I know that this measure does not please everyone. The nature of this issue will not allow that outcome. One cannot have a Lexus if one's budget can only support a stripped down Ford. This measure was designed to help bring the cost of automobile insurance down for basic coverage so that adequate coverage was available to most people at a reasonable, affordable price. That is what we have done.

"Yes, we have reduced some of the minimum mandatory coverages. They're still greater than a lot of the minimum mandates in other states. They need to be because we have a higher cost of living here. Unfortunately because of that, insurance for us will always be higher than much of the continental 48 states. This measure provides some very important features. It does provide a disincentive to sue. Under the current law, if you manage to pad your claim and reach up to \$13,901 you could sue for every dollar of the \$13,901. Under this new law, you may not sue from dollar one. You will not be able to recover the deductible amount and that is a disincentive to sue. Talk to any attorney. They will tell you that.

"We have eliminated the ability to pad claims -- a major cost driver under the present system. The definition of personal injury protection benefits are medical benefits as defined in pre-paid health. We've made alternative care optional. We've put a box around the utilization of chiropractic care. Those were the two major ways to pad claims under the current system. We've eliminated substitute services from PIP coverage -- another cost driver. We've eliminated mandatory wage loss coverage. Lots of folks don't need those features now because they're covered in other plans. By eliminating the ability to pad claims we'll be able to keep payouts low and that will help to reduce costs in the system.

"The committee was charged with a couple of goals when we undertook this assignment this year. The first was not to cost-shift to employers -- we don't. The average medical payout under the current system is only \$4,700. We have personal injury protection (medical coverage) of \$10,000. We believe

and our actuary confirms that's adequate to prevent a cost shift to prepaid health plans. This measure does not cost-shift to small business or other employers.

"Secondly, we had to reduce the cost in the system. We've addressed the major cost drivers. We've put a box around litigation. We've put a box around the chiropractic care abuses, and we've eliminated alternative care as part of the basic coverage. We've eliminated claim padding. And we believe, based on an actuarial analysis of the C.D. 1, that we have a defensible savings of between 20-35 percent off basic rates that were in effect July 1, 1996.

"And I would just call everybody's attention to the process that we went through when we lowered workers' compensation rates. Lots of folks said, can't happen; you're not going to get it down. We were able to mandate a 27 percent reduction by the legislation that we passed. It was defended by the commissioner's office. It was defended by DLIR. Not only did small businesses save as a result, but we had additional carriers come into the state. The parallel's with auto insurance reform are apparent. It's logical to assume that we're going to see the same reductions here.

"I think the situation in 1997 is far different than it was in 1992. This is a defensible bill and I urge my colleagues to vote 'yes.'

"Thank you."

Senator Levin rose to support the measure as follows:

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

"A couple of years ago congress was debating a very broad health care insurance reform proposed by President Clinton. That legislation was eventually defeated by a coalition of those who wanted more and those who wanted less. The phrase that came out of that was that 'It's a terrible thing to have the perfect be the enemy of the good.' That situation comes to mind as I hear the sentiments that are being voiced on this floor today with respect to opposition to this bill.

"No one, including the chairs of the Consumer Protection Committee who worked so hard on this bill, is claiming that this is a perfect bill. But, does it move us forward? I certainly think it does.

"I share the sentiments voiced by my colleague from Kauai and I share the sentiments voiced by my colleague from God's country. I even share the sentiments, dare I say, of those expressed by the Minority Floor Leader. I have been a strong advocate of choice. I probably would support pay-at-the-pump, and if this bill doesn't work we can revisit those issues. We can look at additional ways to help the consumer. But does anybody really want to go home, go back to their constituents and tell them that no-fault still lives -- that the existing law is going to continue in place. I think that is the worst of all worlds. If we're going to look for a perfect bill, the question is going to rise, what can we agree on that might be perfect.

"There are a handful of us on this floor, and presumably we have colleagues in the House, as well, who do think that choice is the way to go. But do we really believe that if we had a Special Session that we would come out with a choice bill? I think not.

"I think that we have fought this struggle for years and that we have come up with something that does move us forward and it is worthy of our support.

"Thank you, Mr. President."

Senator Anderson rose again and stated:

"Mr. President, may I have a few words to, I guess you could say, rebut what my colleague from Hilo has said.

"I think Senator Iwase mentioned earlier, we've had three previous bills -- one that went up to the governor that he refused to sign; one that we believe, as Senators, was a very good bill. Last year we sat and did not pass anything because we were looking at a 45 percent reduction for everybody. And that was a good bill.

"We're not here just to pass bills. To work hard is what we're elected for. But just to pass something to be passing something is not what the game is all about. The game is about trying to do the best that you can for the people that elect you and want you to represent them properly.

"We had a good Senate bill. I was proud to stand on this floor and be a Senator and say, hey, I will back the Senate position such as I did with the budget. But when we crumble in and give everything and end up with something that we're not proud of, I would rather go back with nothing. And I can go ahead and explain that to my constituents. I have no problem with that. And as I said earlier, I have lots of friends and family on your island that you represent, my friends and family. I would rather you tell them that you cannot go ahead and buy this bill because it doesn't give them anything.

"Thank you, Senator."

Senator M. Ige opposed the measure as follows:

"Mr. President, I, too, rise to speak against this measure.

"Mr. President, I was expecting to say anything until the Senate Vice President stood and mentioned the perfect bill that we're all trying to work towards. But, Mr. President, I will go home. I'll vote 'no' and go home and tell my constituents and face the criticism on this measure, Senator Levin. I believe it is more important that we live up to the spirit of the Senate President in his opening day speech that we all work together to provide a measure that we all can agree to.

"Let me just read from the Senate Journal on the First Day: 'The lesson we have learned is that there is strength in cooperation. Working together, we can overcome all obstacles, yet sustain Hawaii as a very special place, our island home, where impossible dreams are possible.' And that was said by our Senate President.

"Senator Levin, my feeling is yes, we can come to consensus if there is an extension, like the Speaker is contemplating, that we should not throw in the towel, that we should continue to work together as a team to make our community a better place.

"With that, Mr. President, I would like to say I will vote 'no' and I will go home and face the music of my community.

"Thank you."

Senator Chun Oakland then requested that her remarks in support of the measure be inserted into the Journal and the Chair having so ordered, Senator Chun Oakland's remarks read as follows:

"Mr. President, I sat through numerous hearings for the past four years on motor vehicle insurance reform. The overwhelming concerns voiced at these hearings by consumers on various proposals on this issue were: (1) insurance companies denying legitimate claims they made to their insurance company; (2) the unreasonable length and process of the peer review element of the present system; (3) the cost of insurance premiums being unaffordable; and (4) the need to have a greater ability to control their own destinies when they do get injured.

"My family has only basic insurance coverage. That is all we can afford. I'm probably the only legislator who has basic minimum coverage. I know I am typical of many people who drive. I believe this measure is a step forward and very much appreciate our co-chairs of CPI and their committee in working extremely hard on this product. I thank the consumers, providers and others for all their help."

The motion was put by the Chair and carried, Conf. Com. Rep. No. 171 was adopted and H.B. No. 100, H.D. 1, S.D. 1, C.D. 1, entitled: "A BILL FOR AN ACT RELATING TO MOTOR VEHICLE INSURANCE," having been read throughout, and Roll Call vote having been requested, passed Final Reading on the following showing of Ayes and Noes:

Ayes, 13. Noes, 12 (Aki, Anderson, Bunda, Fernandes Salling, Ige, M., Iwase, Kawamoto, Sakamoto, Slom, Solomon, Tam, Tanaka).

At 11:31 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:34 o'clock a.m.

SENATE RESOLUTIONS

The following resolutions (S.R. Nos. 144 to 150) were read by the Clerk and were disposed of as follows:

Senate Resolution

No. 144 "SENATE RESOLUTION RECOGNIZING WITH GRATITUDE EACH OF THE MINISTERS OF RELIGION WHO OPENED A DAY OF THE SENATE, NINETEENTH LEGISLATURE OF THE STATE OF HAWAII, REGULAR SESSION OF 1997, WITH AN INSPIRATIONAL INVOCATION."

Offered by: Senators Ihara, McCartney, Anderson.

On motion by Senator McCartney, seconded by Senator Slom and carried, S.R. No. 144, was adopted.

No. 145 "SENATE RESOLUTION EXPRESSING DEEPEST APPRECIATION TO THE MEMBERS OF THE VARIOUS MEDIA FOR THEIR COVERAGE OF THE ACTIVITIES OF THE NINETEENTH LEGISLATURE, REGULAR SESSION OF 1997."

Offered by: Senators Ihara, McCartney, Anderson.

On motion by Senator McCartney, seconded by Senator Slom and carried, S.R. No. 145, was adopted.

No. 146 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE SIXTY-FIRST DAY."

Offered by: Senators McCartney, Ihara, Anderson.

On motion by Senator McCartney, seconded by Senator Slom and carried, S.R. No. 146, was adopted.

No. 147 "SENATE RESOLUTION RELATING TO THE PRINTING OF THE JOURNAL OF THE SENATE."

Offered by: Senators McCartney, Ihara, Anderson.

On motion by Senator McCartney, seconded by Senator Slom and carried, S.R. No. 147, was adopted.

No. 148 "SENATE RESOLUTION RETURNING ALL BILLS, CONCURRENT RESOLUTIONS, AND RESOLUTIONS TO THE CLERK'S DESK."

Offered by: Senators Ihara, McCartney, Anderson.

On motion by Senator McCartney, seconded by Senator Slom and carried, S.R. No. 148, was adopted.

No. 149 "SENATE RESOLUTION REGARDING COMPLETION OF THE WORK OF THE NINETEENTH LEGISLATURE SUBSEQUENT TO THE ADJOURNMENT THEREOF."

Offered by: Senators Ihara, McCartney, Anderson.

On motion by Senator McCartney, seconded by Senator Slom and carried, S.R. No. 149, was adopted.

No. 150 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO DESIGNATE THE EMPLOYEES WHO WILL WORK AFTER ADJOURNMENT."

Offered by: Senators McCartney, Ihara, Anderson.

On motion by Senator McCartney, seconded by Senator Slom and carried, S.R. No. 150, was adopted.

Senator Solomon rose on a point of personal privilege as follows:

"Mr. President, just on a point of personal privilege.

"Mr. President, I would like to thank all my colleagues for all of their tolerance and indulgence. I think no matter what, we had a great session, and at least now I think we have come to the understanding that we can all agree to disagree. I always tried to be as persuasive as I possibly could. (Laughter.)

"Thank you very much, Mr. President. Thank you all for this wonderful session. Aloha."

Senator Slom rose on a point of personal privilege and stated:

"Mr. President, I rise on a point of personal privilege.

"Thank you, Mr. President, and I thank my colleague from the Big Island. I just want to thank all my colleagues for all of their help and support and assistance in this my first session. It was interesting because people kept asking me, are you having fun; are you having fun. And I'd say, well, this is a wonderful group. They're a fun-loving bunch of men and women, and of course we always have fun.

"But we weren't sent here to have fun. We were sent here to make change. We were sent here to improve the lot of every one of our citizens. We were sent here to improve our business climate which still ranks 50th in the nation. We were sent here to give people more take-home pay. We were sent here to improve workers' compensation and to have full and open hearings on everything that we do and we discuss. We were sent here to create opportunities and choices and provide incentives. We were sent here to stop the brain-drain and to stop the bankruptcies and stop the foreclosures, and to give sovereignty to each and every one of us and without economic sovereignty there can be no true individual sovereignty or freedom. We were sent here to do a job and to remember also that if we are to settle anytime on any issue for the lesser of two evils, that we are always still settling for evil.

"We have made a great many accomplishments. We have gotten a lot of things out of the way. And we'll be back; we'll be back to focus more closely and more carefully on those problems that affect each and every one of us. And I'll still be here to read the obituary list but I hope that we can do something to stop that reading, to make that list much smaller.

"And so I again thank you for all of your help even though I did not get ice cream after my last vote. And I did count, Mr. President, that since the beginning of this session the word

collaboration was used 594 times. The Clerk may check to see if my mathematics is accurate. And so what I would like to leave my colleagues is the Webster's definition of that word that you all use so frequently and so openly. I will hand out a copy to you but, of course, the No. 1 definition is, 'to work together, especially in a joint intellectual effort,' and I know there was a great deal of intellectualizing that went on here day by day. However, the second primary definition of collaborate is, 'to cooperate treasonably, as with an enemy occupying one's country.' I would just make sure that we're all using the first definition (laughter) and that we can tell the difference so that we do not have further instances of government occupying every individual's way of life, way of thinking, way of making a living.

"So, again to you, Mr. President, and to my colleagues, thank you and mahalo. Aloha."

Senate President Mizuguchi then delivered his closing remarks as follows:

"Members of the Senate, I will use the K-I-S-S technique -- Keep It Short and Sweet -- because I'm sure you don't want a long-winded speech right now.

"Three and one-half months ago we set out on a journey to take care of some unfinished business. We heard the public's message loud and clear and worked tirelessly to settle that unfinished business.

"I was heartened to see that collaboration seemed to be the watchword for this session. Partnering efforts and greater interaction between members of the Senate and their committees instilled a spirit of cooperation.

"It's very easy for critics to sit on the sidelines and judge our legislative process -- what we've done and how we've done it. In the face of these same critics who said that our co-chair system would not work, you proved them wrong. The result is a legislative package that we all can be proud of.

"Your Herculean efforts took care of unfinished business and I'm very grateful as your Senate President.

"Amidst changing federal policies and mandates, larger-than-expected revenue shortfalls, and painful budget cuts, people expected -- and demanded -- that their needs be met. That was our challenge during this legislative session. In spite of tremendous outside forces beyond our control, I believe we met that challenge. As best we could, we provided for the people ... first and foremost. But our work is not yet done. People will continue to ask: 'What will you do for me tomorrow?' We will need to face that challenge by defining a new Hawaii.

"Although as an island state we have physical and resource limitations, I believe that bold, creative revenue-enhancing initiatives can help re-define Hawaii. I look forward to working with all of you to develop them.

"The public, special-interest groups, the media, and others will critique and grade our work this session. We might not receive rave reviews but no matter what the critics say, you can go home today knowing that you did your best to support the public's interest.

"I thank you Senators, both majority and minority, and all of your staff for your commitment and hard work on behalf of the people of this great State of Hawaii. My compliments for a job well done. Aloha and mahalo."

ADJOURNMENT

Senator Ihara moved that the Senate of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1997, adjourn Sine Die, seconded by Senator Slom and carried.

At 11:45 o'clock a.m., the President rapped his gavel and declared the Senate of the Nineteenth Legislature of the State of Hawaii, Regular Session of 1997, adjourned Sine Die.

ATTACHMENT "I"

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April 29, 1997

TO: Insurance Commissioner Rey Graulty

FROM: Martin M. Simons

Subject: Hawaii's New Automobile Insurance Law.

Hawaii's new automobile insurance law gives Hawaii's drivers a greater choice in providing for their automobile insurance needs. This legislation continues to control the legal costs associated with minor injuries and eliminates the duplicate payment of claims that are already covered through other forms of insurance, thereby saving the Hawaii consumer millions of dollars in annual automobile insurance premiums while continuing to provide the much needed coverages associated with driving an automobile.

There are savings included in the new law for every purchaser of insurance in the State. The legislature has addressed those issues that have been the major contributors in driving up the cost of insurance in Hawaii. While automobile insurance rates will always be driven by the higher than average cost of products and services in the State, this law will provide for substantial reductions in the price of Hawaii's automobile insurance. Additional savings are available to those insurance buyers who elect not to purchase certain coverage that they decide they do not need. Hawaii insurance purchasers can expect to see savings of as much as twenty to thirty-five percent from last year's rates as the new rates and premiums are adjusted for the effects of this law. By deciding upon his or her own insurance needs, each citizen is in a position to determine the amount of coverage needed, and to directly impact upon his or her individual insurance cost savings.

In addition, the law provides for increased powers on the part of state officials in investigating and punishing those who are found guilty of fraud in association with virtually all parts of the insurance process. Activities that have provided costly delays in the automobile insurance process have been discontinued and the abilities of state officials to prevent costly excesses have been improved.

Automobile insurance legislation is a complex and intricate issue. Contributions to this much needed insurance reform have come from all sectors involved in the automobile insurance process including consumers, medical providers, insurers and public officials.

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April 29, 1997

TO: Commissioner Rey Gaulty

FROM: M. M. Simons

SUBJECT HB100 HD1 SD1 CD1
(1997-2599 HB100 CD1 SMA-9)

I have reviewed the language in the captioned Bill which was faxed to me late in the evening on April 28, 1997 Hawaii time.

The provisions in this Bill will provide for savings in the premiums charged for basic insurance (i.e., mandated coverages) of between 20 percent and 35 percent from the rates that were in effect on July 1, 1996.

ATTACHMENT "II"

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May 1, 1997

TO: Commissioner Rey Grauly

FROM: Martin M. Simons

SUBJECT: HB100 CD1

The legislature has received letters from State Farm, The Hawaii Insurers' Council and the National Association of Independent Insurers. This letter is intended to provide additional information relative to those letters and the issues raised by those parties.

State Farm has reduced its estimate of expected savings from those provided previously, asserting that the reduction is due to an increase in medical coverage and an increase in the liability limits from those which were included in the prior versions. They fail to mention that the deductible has been increased through the use of the "covered loss deductible" concept. In prior analyses, State Farm has estimated that the savings will increase by from 6% to 7% on the basic policy by moving the deductible from \$5,000 to \$10,000. That means that a 13% savings under a \$5,000 deductible will increase to 19%-20% with a \$10,000 deductible. The covered loss deductible will produce a result quite similar to that for a \$10,000 deductible, and the resulting difference in pricing will also be similar. They also contend that the mandated rate reductions in each of the drafts has not changed when the lower end of the range of reductions has, in fact, been revised from 25% in previous proposals down to 20% in this Bill.

State Farm has provided the legislature with estimates based upon their current rate levels. The reductions in HB100 CD1 however, relate to reductions from the rates that were in effect on July 1, 1996. Since State Farm had reductions in the rates for the basic policy mandated coverages since July 1, 1996, these reductions should be added to those contained in their April 10, 1997 letter to the Senate President. Taking the above issues into account, it appears that State Farm is in agreement with the savings as they are stated in the Bill.

Absent from any of the industry responses and pricing analyses are the extremely favorable recent trends in clam frequency and average claim costs for automobile insurance in Hawaii. Following 1995 experience, which produced the lowest personal automobile loss ratios in the country, claim frequency and severity trends showed

substantial additional improvements in 1996. The source of this information is the fast track data through the end of 1996 that is presented by the insurance industry to The National Association of Insurance Commissioners. In spite of the fact that the loss ratios have dropped dramatically, and insurer profits have risen accordingly, there has only been a modicum of rate reductions filed with the Insurance Division that incorporate much or even any of these improvements. As insurers file for rates under the new system in order to assure that those rates are not excessive or inadequate, these favorable trends will have to be taken into consideration. HB100 CD1 gives the insurance commissioner the power, and in fact the duty, to do so.

In State Farm's analysis of the family that purchases higher than minimum limits, this family has purchased and continues to purchase \$50,000 of PIP coverage. This includes medical as well as wage loss coverage in excess of the minimum. Medical coverage in excess of \$10,000 is costly. The added benefit to many already protected Hawaii consumers is questionable. HB100 CD1 allows this family to purchase additional wage loss coverage up to their desired level without purchasing medical coverage in excess of the minimum. If the insurance industry expended the same amount of effort in educating this policyholder of the true benefits or lack thereof of purchasing high limits of medical coverage as they have in convincing the legislature of the shortcomings of HB100 CD1 perhaps this family would see a greater savings.

The insurance industry continues to contend that the savings in HB100 CD1 are due strictly from reductions in mandated coverages. Ignored in such a statement are criteria such as the following:

- 1) There has been a great deal of discussion through these proceedings as well as all of the automobile insurance discussions over the past years relating to the effect upon rates of the "padding" of claims. Claims padding occurs when claimants seek additional treatments and incur other additional economic losses in order to reach a threshold or in this case a deductible and thereby gain the ability to litigate against a negligent party to an automobile insurance case. Claim padding has been the single major cost driver under the monetary threshold, causing the threshold to become a moving target in order to keep a specific percentage of claims out of the litigation process. Insurers have alleged that the \$5,000 deductible contained in HB100 CD1 will increase the amount of claim padding since the \$5,000 level is substantially below the current monetary threshold of \$13,900.

Actually, HB100 CD1 addresses the claim padding problem in several ways, and a comparison of the \$5,000 to \$10,000 deductible level with the current \$13,900 monetary threshold is meaningless unless all of the issues are considered. HB100 CD1 does not permit the use of wage losses in attaining the deductible level while wage losses were used extensively to meet the monetary threshold. In addition, chiropractic and other alternative care provisions were used extensively to meet the monetary threshold. HB100 CD1 makes it virtually impossible to use alternative care expenses to pad claims in order to reach the deductible. Most important, once the monetary threshold was pierced, claimants were able to sue for every dollar of economic loss, including all those expenses that were "padded" to reach the threshold. The deductible reduces each claim that reaches litigation by an amount between \$5,000 and \$10,000 depending upon the medical expenses incurred since those are the only expenses that are used in deriving the ability to sue and the deductions are commensurate with coverage that is provided elsewhere in the policy. This process directly addresses and substantially reduces the abuse that was inherent under the monetary threshold. Comparisons between a \$13,900 monetary

threshold and a \$5,000 to \$10,000 covered loss deductible without taking these very significant differences into account are misleading at best.

2) HB 100 CD1 directly addresses the Legislature's concerns relative to the high average bodily injury liability claim cost in Hawaii. Each Bodily Injury Claim will be reduced under HB100 CD1 from their levels under the current monetary threshold. Claims are reduced by the deductible that previously included first dollar coverage due to the monetary threshold concept, providing for a direct reduction in the average claim cost. Even if claim expenses are padded to the same extent as they have been under the current system (which is unlikely under the restrictions included in the Bill), there will be a reduction in the average bodily injury claim cost that will impact upon the experience and the rates for all policyholders whether they purchase minimum limits or greater than minimum limits.

3) The limitations placed upon chiropractic visits will impact upon the experience for all of Hawaii's automobile insurance purchasers by reducing the amount of claim dollars paid for these providers. In addition, the family referred to in State Farm's analysis who purchase more than the minimum coverages, will now have the option to purchase alternative care protection or not. It is now the purchaser rather than the State who will make those decisions. If families wish to save additional money by eliminating alternative care providers and by accepting limited chiropractic coverage, they may now do so.

4) Under the current system, insurance purchasers are required to purchase coverage for wage losses regardless of whether they are wage earners or not and regardless of whether they have wage loss coverage elsewhere or not. This includes retired people as well as those with wage loss coverage through a program provided by their employer. HB100 CD1 provides the opportunity for people to save money by not having to purchase coverage for funds they will never collect or for losses that are covered elsewhere. These are real savings provided for automobile insurance policyholders whether they purchase minimum limits or higher limits of coverage.

5) HB100 CD1 gives the Hawaii automobile insurance purchaser several other options that were not available in the past, including the ability to purchase wage loss coverage without having to purchase commensurate medical coverage.

6) As has been stated several times, the reductions stated in the Bill are from rates that were in effect on July 1, 1996. The reductions include the impact of the revised medical fee schedules that are further revised in HB100 CD1. It is the language of HB100 CD1 that gives the commissioner the power to reduce rates for the impact of these prior revisions. These decreases should have been taken immediately by all insurers, but it has been found necessary to include language such as that which is contained in HB100 CD1 to get those reductions to a substantial number of Hawaii's automobile insurance purchasers, regardless of the levels of insurance purchased.

7) The replacement of the current unlimited Bodily Injury liability limits with limits that are specific and definable will impact upon the rates paid by all Hawaii policyholders, regardless of the limits purchased.

8) The significant and substantial reductions in claim frequency and average claim cost that have been all but ignored by much of the insurance industry will impact upon

the calculation of rates for all Hawaii policyholders, regardless of the limits purchased. These improvements have continued throughout 1996. HB100 CD1 gives the Commissioner the ability, given this highly profitable situation, to provide savings for all policyholders in the State, and will provide savings regardless of the limits purchased.

9) While the effects of the increased fraud provisions are not necessarily definable at this time, the fraud sections of HB100 CD1 will produce savings for all Hawaii policyholders, regardless of the limits purchased. These savings will take place over the next few years.

10) The effect of the elimination of peer review will similarly take some time to find its way into the rates. If the elimination of peer review does provide for less delays and faster claim payments, and if those faster claim payment processes do, in fact, save money, as many believe will occur, then the experience will allow for additional rate reductions for all Hawaii policyholders over the next few years, regardless of the limits purchased.

I have refrained from giving specifics of the rate reductions since these reductions will vary between insurers and each of the individual savings are interrelated. A change in one item will impact upon others, and the misuse of these estimates could be detrimental to the process. Keeping this in mind, I request that these numbers be viewed as guides to areas within the Bill that provide for savings and the amount of estimated savings derived from each item. The actual savings will be determined from individual insurer filings, the actual statistical information included in those filings and, if required, the discovery material obtained in the rate hearing process. Please refrain from adding or otherwise combining these estimates (either the minimums or maximums) as this will produce erroneous expectations. The following numbers are meant to provide an estimate of what is expected to be found within the rate filings submitted to the commissioner given the information available to us at this time. If I sound overly cautious, it's because of a fear that these estimates may be misused, and that such misuse will result in our inability to adequately defend the reductions in court. These are some of the reasons for a wide range of expected reductions such as that which is included in HB100 CD1. The resulting rate reductions that are expected to be derived from HB100 CD1 are between 20% and 35% for mandated coverages from the rates that were in effect on July 1, 1996, derived in light of the following:

PIP revision from \$20,000 PIP to \$10,000 medical with limited chiropractic coverage, no other alternative care coverage and no wage loss coverage =

approximate savings of 12% to 17%.

BI revision from 25/unlimited with monetary threshold to 24/40 BI liability with covered loss deductible =

approximate savings of 4% to 8%.

Reduction from previous med fee schedule change =

approximate savings of 5% to 8%.

Reductions to be effected due to Commissioner's ability within HB100 CD1 to reduce rates based upon favorable experience =

approximate savings of 7% to 15%.

Additional future reductions due to fraud provisions are not defined or included.

Additional future reductions due to peer review elimination are not defined or included.

I sincerely hope that this additional information will assist the legislature in making their decision. It is unfortunate that there doesn't seem to be a magical solution; one that will please all the parties involved in providing and purchasing automobile insurance in Hawaii. Throughout this process, I have attempted to assist you in responding to requests presented by the legislature for information and clarification of individual issues, concerns and proposals and to aid the decision makers in arriving at a workable solution to Hawaii's automobile insurance problems. As is now obvious to all, the process of amending automobile insurance legislation is a technical and extremely complex and difficult one.