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PUBLIC HEARING
before
THE ASSEMBLY INSURANCE COMMITTEE
on
Verbal Threshold in No-Fault Insurance

January 22, 1986
Committee Room
Dover Township
Municipal Building
Toms River, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman A. Ralph Loveys, Chairman
Assemblyman Gerald Zecker, Vice-Chairman
Assemblyman Karl Weidel
Assemblyman John K. Rafferty
Assemblyman John V. Kelly

New Jersey State Library

ALSO PRESENT:

Laurine Purola
Office of Legislative Services
Aide, Assembly Insurance Committee

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ASSEMBLYMAN RALPH A. LOVEYS (Chairman): Good morning. May I introduce those members who are present on the Insurance Committee: Assemblyman Gerry Zecker, Assemblyman Jack Kelly, on my far left, and Assemblyman Jack Rafferty. I am Ralph Loveys, and this is Laurine Purola, who is the staff aide for the Insurance Committee.

We do have one, two, three, four, five -- approximately 10 people who have signed up to testify today. So I'll have a few opening remarks and then we will lay the ground rules as to how we plan to handle this meeting.

Speaking for myself and for the Assembly Insurance Committee, I would like to welcome you all today to the second of three hearings which this Committee is holding on the subject of no-fault automobile insurance. Specifically, we are considering today the proposal that New Jersey adopt a verbal threshold, which would limit lawsuits for pain and suffering to those people who sustain automobile injuries.

Our first public hearing was held in Newark last Friday. At that time a number of witnesses shared their thoughts with us on this most important subject. I am sure I speak for the other members of the Committee when I say that the session was instructive for all of us.

We are here today to hear your views, and we will give most careful consideration to your testimony. New Jersey's no-fault law has been in effect for 13 years, and the cost savings which were expected to result have not materialized to the extent which some had hoped. The law has given us many benefits -- prompt payment of accident victims' medical bills, the payment of wages-loss benefits, and replacement service benefits. In short, accident victims in New Jersey are made whole without regard to fault.

Even more important, the present no-fault system compensates victims who have sustained catastrophic injuries. This takes the burden and cost of these injuries out of the regular health insurance system, which is already overtaxed.

We are here today to explore the question of adopting a verbal threshold in place of the present dollar threshold as a means of cutting costs. The concept of the verbal threshold is based on the idea that people who receive full medical benefits, wage-loss benefits,

and other benefits from their insurers when they are injured should only be permitted to sue for damages for pain and suffering when they are seriously injured. When no-fault was adopted in New Jersey, one of the arguments used in favor of it was that it would remove unnecessary litigation from the overtaxed court system. While the number of automobile negligent cases in the courts dropped initially, the court caseload has steadily increased since 1973. This year, for the first time, the percentage of automobile negligent cases has exceeded the pre-no-fault level. Before no-fault, 53% of all civil cases were automobile negligent cases. This past year, 61% of all civil cases were no-fault cases. Clearly, as a means of cutting down costly litigation, no-fault is a failure.

This Committee intends to address itself to the question of making no-fault work in New Jersey. This is why we are here today. We want this State to have an insurance system which is fair and which provides sufficient benefits to protect people against economic loss when they are injured.

I would ask at this time if anyone who is going to testify has a prepared statement, would they leave it with us before they testify. We have approximately 12 people who will be testifying. We do have another meeting this afternoon in Cherry Hill, so we will be ending this session this morning at 12 o'clock. So, what I am going to do is limit those testifying, if you will, to 15 minutes. This should bring us in around a two-hour or two-and-a-half-hour mark, if everyone takes their full allotment of time, and we will still have some time for some questions from the Committee if they choose to do so.

With that said, we will move on to those who wish to testify. With your kind permission, ladies and gentlemen, I know we have in our midst today four Assemblymen. These are the people who tend to speak less than some of us do. So we will call on them first, if we can. I know you will excuse me if I take that privilege. At this time, I would like to introduce and ask if he would come forward and testify, Assemblyman Jack Hendrickson. Jack?

ASSEMBLYMAN JOHN T. HENDRICKSON, JR.: Thank you very much, Chairman Loveys. First of all, let me congratulate you and the Committee for

taking in hand this very complex problem, and one of the largest problems, I believe, to say the least, from my last four years of experience as an Assemblyman with my constituents, the cost of automobile insurance. It is prohibitive in our area for some people to even own an automobile to try to protect their financial means.

I am not going to take a lot of time. I feel, and all of the research we have seen -- the Assemblyman Weidel bill, the verbal threshold, the medical fee schedule-- These things are in the right direction. It's toned to go very shortly to reduce the cost. We are not saying, I don't believe, that it is going to reduce the cost as much as some people might think it will, but the experience of Florida and the experience of New York State indicates it is about 30%. If we can, through the cooperation of the carriers and our people-- Verbal threshold, medical fee schedule, is the direction to help the insurance costs to the State of New Jersey.

It is a complex problem. I don't feel that the elimination of no-fault completely will do anything but add to larger problems of our automobile owners. It will not take the problems of the courts. It will force our people to sue one another to find the fault of the accident -- in that direction. So, shortly, as soon as we can, verbal threshold and medical fee schedule together will help, in my opinion, to reduce the cost of automobile insurance someplace around 30%.

Again, thank you very much for the time of testimony. I have about four pages of written testimony here, and I know we could have read it off for you, but I will present it to you, through my aide. Know that throughout the State, with these hearings, we are going to help our people. Thank you very much.

ASSEMBLYMAN LOVEYS: Jack, thank you. Does anyone on the Committee have any questions for Assemblyman Hendrickson?

ASSEMBLYMAN RAFFERTY: We just-- Assemblyman Kelly just mentioned to me-- Just to clarify that 30% to the people, the premium that you pay for insurance is divided into separate segments, so Assemblyman Hendrickson is referring to that bodily injury segment, which represents 20-some percent of your total premium. So when you talk about 30%, you're not talking about 30% of your entire premium;

you're talking about 30% of that 24% that constitutes bodily injury for the entire premium, or bill that you pay each year.

ASSEMBLYMAN HENDRICKSON: If I may add-- I think part of that I did say. It will not reduce the cost as much as our people really need it to be reduced, but it is the direction to go to help the high cost of insurance and the ownership, particularly in our area, where we are limited with mass transportation. In this area, at least in the Ninth Legislative District, we must have automobiles for transportation. They are a necessity. To protect the equity of the homeowner, we need insurance, and it is imperative that we do all that we can to reduce it, to the best of our ability.

ASSEMBLYMAN LOVEYS: Assemblyman, you did say that, and I do feel that this is just the first segment of many segments of many areas that we should reform to reduce the premium costs.

ASSEMBLYMAN HENDRICKSON: Thank you very much.

ASSEMBLYMAN LOVEYS: Thank you, Assemblyman. At this time I will ask that Assemblyman Jeff Moran move forward.

ASSEMBLYMAN JEFFREY MORAN: Thank you, Mr. Chairman. I would personally like to welcome each and every one of you to the neighboring District 10, from nine. If you look out these windows here, you can see our District, and it shines on the Ninth as well as the Tenth. I would also like to commend the audience. It's a nice feeling to be at a public hearing and see such a crowd. The interest is there.

Mr. Chairman, I would like to take this opportunity to explain to you briefly some of the concerns we have in the Ninth District. My District, as well as that of the Tenth District, are alike in that our constituents must have cars, in most cases more than one, to get to where they have to go. For many people it is tough enough to make ends meet these days after paying insurance costs for one car. When the insurance on two vehicles is figured in, it represents a major portion of a family's expenses.

This is why it is important that we find a solution to unacceptable high insurance costs. It is time we provide a verbal threshold for pain and suffering lawsuits. The public wants it, and it is our obligation to provide it. When the no-fault system was adopted,

it was hailed as a vehicle to remove many of the lawsuits that clogged the courts. But after initial success -- in initial success, we have seen a steady rise in the court caseloads for more than a decade. The existing monetary threshold, which is ridiculously low, only encourages motorists to cheat the system by inflating the cost of their medical treatment. A respected physician testified before your Committee just last week that there are some doctors and lawyers in this State who are more than willing to become partners in a scheme. A verbal threshold would help to eliminate this type of unscrupulous behavior.

I would like to add my voice to the growing list of those supporting this reform, including the Governor and Insurance Commissioner Gluck. We need a fair insurance system, but not just a simple remedy that is going to be phased out in years. We need a system that our hard-pressed insurance policyholders can afford.

Mr. Chairman and gentlemen, again, thank you for the opportunity to be here, and I hope you hear our voices loud and clear. Thank you.

ASSEMBLYMAN LOVEYS: Thank you, Assemblyman. Do we have any questions for Assemblyman Moran? (negative response) Thanks again, and thanks for the warm welcome, too.

ASSEMBLYMAN MORAN: Thank you very much.

ASSEMBLYMAN LOVEYS: May I call on Assemblyman Robert Singer?

ASSEMBLYMAN ROBERT SINGER: Good morning, Mr. Chairman; good morning, Committee. I certainly want to welcome you to Ocean County, Dover Township, and I certainly want to thank you for taking time out of your schedule to hold a hearing here in Ocean County. Of course you know that Ocean County is the leading senior citizen county in the State, and certainly automobile insurance is quite a concern to seniors, because many of them are on fixed incomes.

There is a crisis in the insurance industry which is broadly and adversely affecting institutions and individuals. This crisis is getting even worse. The problem is twofold: For everyone who can obtain insurance, the price has skyrocketed, and the costs are being passed on to taxpayers and consumers. For others, insurance is unavailable at any price. The latter aspect is the most troubling,

because it ultimately leaves the previously insured absolutely exposed to truly gigantic judgments which are increasingly encountered. If these judgments are paid, the uninsured may be significantly ruined. If there are insufficient assets to make such payments, the claimants, unfortunately, may be uncompensated.

Last September, Governor Kean, sensitive to the growing insurance emergency, took the strong, positive act of signing a specific Executive Order prohibiting any insurance company from canceling any liability coverage. Nevertheless, this measure, however commendable, came too late for those policies that had already been canceled. Many municipalities, such as Jackson Township's Municipal Utility Authority, whose insurance was canceled prior to the Executive Order, cannot obtain replacement coverage, and stands naked before potential liability claims. Even though you can obtain coverage, the exorbitant rates-- It is clear to Jackson Township that liability insurance premiums are a major problem.

One year ago, the liability insurance for their Township School Board was \$35,000. To put it safe in the budget, the School Board put \$60,000 in the policy. However, when they received the premium bill for this year, it was over \$400,000. Similarly, the Ocean County Board of Health, whose premium was \$25,000, although it never had a claim against it, has risen to over \$80,000.

The insurance carrier cannot refuse to continue a policy. They are still allowing, though, the fact that they are raising it to unrealistic premiums. In many cases, we are only given 48 hours to make a decision whether a municipality or a public health area has to renew their insurance.

We must actively examine and pursue all viable solutions to this crisis. One possible one is for school boards, municipalities, and public authorities to pool their assets together and self-insure. It could be accomplished in accordance with the proper actual analysis. Then the lack of need for profit might significantly reduce the effective cost of insurance, while insuring that all public entities are actually insured. The result could be substantial savings for taxpayers.

I realize the board today is gearing their thoughts on the verbal threshold. But I did want to bring to you the fact that we at the local level, and as a local mayor, are facing extreme problems right now. I realize that the verbal threshold is the thrust today, and I will make a comment on that. I want you to understand that we must do something immediately to take away the pressure on the local level. Certainly, the concept of allowing utility authorities, school boards, and municipalities to pool their insurance together -- and by the way, that does affect their automobile insurance -- and allow them to self-insure, may be a way for all of us to save a lot of money.

As you know, presently we cannot co-insure with school boards. We were at a meeting Friday with the superintendents of Ocean County. They are at a crisis stage. When school boards are being raised 700% and 800% in their insurance premiums, they can't afford it. It is passed directly to the taxpayers. Our premium in my municipality is not up yet. We are shuttering to think what it is going to be in June. We are not able to purchase many excess policies as we could in the past. Again, we self-insure our automobiles at the municipal level, but I think you have to also look at the concept of letting us pool together on a county-wide basis to possibly reduce that.

On your comments, Mr. Chairman, concerning the verbal threshold, it is a pleasure to see that the Committee has assigned such a high priority to auto insurance. You have made it your first order of business. Mr. Chairman, I commend you. The people of the State have been waiting a long time -- too long -- for relief from sky-high insurance costs. One of the best ways to reduce the oppressive burden, particularly over the long run, is an active verbal threshold. A verbal threshold would limit lawsuits for less serious cases and, in turn, would trigger an insurance savings.

Mr. Chairman, the problem of automobile insurance is a particular concern in my District, where people rely on their cars for work and for many other daily activities. In my District a car is not a luxury; it is a necessity. We now have little choice but to pay

among the highest, if not the highest, auto insurance premiums in the nation. This is unfair. The Committee listened to Insurance Commissioner Gluck testify last week that a verbal threshold would translate into immediate savings, and an even larger savings in the months and years to come. I welcome that statement, and I will work to see that this much needed reform clears the Assembly.

The Legislature gave the no-fault a tune-up in 1983, when it approved, and the Governor signed, an optional higher threshold. The premiums are still too high. The Legislature's work is still not complete. What the system needs is another more effective tune-up, and the best way to accomplish this is through a verbal threshold. I look forward to prompt action on this matter.

Again, I apologize for the fact that I brought up another item other than the verbal threshold, but we are under tremendous pressure on the local levels to meet the needs of our people, and not to raise taxes unrealistically because of the problem with insurance. I hope, also, on the verbal threshold, that you will point your actions immediately to helping us to lower the liability costs on the local level.

ASSEMBLYMAN LOVEYS: Mr. Singer, I want to thank you for your testimony. Rest assured that this Committee plans, in the very near future, to have a public hearing, or public hearings, on the problem of municipal liability and the nonprofit corporations -- the problems that they are experiencing in the liability area. I spoke to Mr. Robert Stutz earlier. I don't know if he has left. He wanted to testify on that very subject today. I indicated to him that we will be having public hearings in the very near future, and hopefully can help to remedy some of these terrible situations.

We thank you today for your testimony.

ASSEMBLYMAN SINGER: Thank you, Mr. Chairman.

ASSEMBLYMAN LOVEYS: Does anyone else have anything for Mr. Singer? (negative response) Thanks again, Bob.

May I, at this time, call on Assemblyman John Paul Doyle?

ASSEMBLYMAN JOHN PAUL DOYLE: Mr. Chairman and members of the Committee: Thank you for allowing me to appear. I appreciate, as the

senior Assembly person from Ocean County, the opportunity to have you down here in our County. I appreciate, personally, Mr. Chairman, the fact that you asked me to testify yourself.

Let me say at the outset, particularly with regard to the overall insurance problems, there is no question but that what Assemblyman Singer says is correct, but it is not only automobile insurance and, in fact, it is not only New Jersey that has an insurance crisis. It is every part of our society. Where you work, the profession you follow, and how you drive to work -- everything you do requires insurance, and every insurance you require is going up, and that is true in every one of our 50 states.

I did notice that Mr. Stutz was here from Brick. I see Mr. Henry here from our Ocean County vocational system. John Patrick, the superintendent of the Lakewood School System was here before. They were under the impression that perhaps it would be broader than the hearing, and I think the hearing ought to be focused on automobile insurance. But when you do have those hearings, as we discussed, Mr. Chairman, concerning public body insurance, I hope that we have not worn out our welcome and you can find your way down to Toms River again for future hearings.

ASSEMBLYMAN LOVEYS: That will be for sure.

ASSEMBLYMAN DOYLE: Let me say with respect to automobile insurance-- If you will excuse my new-found status in the minority, Mr. Chairman, I no longer have a large staff to develop a printed statement, so I will just have to wing it a little bit. (laughter)

ASSEMBLYMAN LOVEYS: It's going to be difficult too, John.

ASSEMBLYMAN DOYLE: I'll rely on my 12 years. I think it will carry me through, Mr. Chairman. Looking at those 12 years, there is no problem that seems to keep coming back like a bad penny, or maybe a bad \$1,000 insurance bill, than automobile insurance. I think what the public is saying to us is, "I don't understand verbal threshold. I don't understand threshold. I don't understand this or that. All I understand," says the public, "is that I am paying too much. I want something that will reduce it, reduce it significantly, reduce it permanently, and that that reduction is guaranteed."

With that thought in mind, I would say to you that I would be for a verbal threshold -- I know it might cost some gasps in the audience from people who follow the same profession I do -- but only if it follows what my constituents tell me. If you can tell me, and more than that, the public of this State that a verbal threshold will give guaranteed significant, permanent reductions on their automobile insurance rates, I would be for it. I would be for any system that guaranteed that. If this does it, fine, I would vote for it. But I think the public should see it, and we, as their representatives, ought to be able to see that.

With those thoughts in mind, let me make some further comments. One would be all too new to this business of governing not to notice a few things, and certainly I have noticed them. It is not by happenstance that this bill is A-1, as opposed to A-682. It is not by happenstance that these hearings are conducted with the speed with which they are, and I commend you for that, members of this Committee, for this issue deserves an urgent inspection. I am given to understand that this bill will be listed for a vote at this Committee's very first meeting tomorrow, and I would think that if I could look in my crystal ball, it will be up for a vote in the Assembly on our first meeting. Speed is wonderful. It certainly has its place. We'll all look at the TV and the Super Bowl, and commend speed on Sunday. But speed in the legislative process, without some deliberation, without giving answers to significant questions the public is asking -- I don't know that it makes sense. If we are going to speed through a solution without answering some of the questions I want to raise today, then speed was wrong. If speed doesn't assure significant, permanent, guaranteed reductions to our public, then speed was wrong.

Some of those questions -- and I don't mean to go into a colloquy or a dialogue-- I just want to raise rhetorically some questions that I hope, when the transcript is finished, and we have, I hope, the opportunity as members of the full Assembly to review it, it does not move as fast as I think it will, so that each of the 80 members of the Assembly can read those transcripts and consider what is right. I hope those transcripts will show answers to some of these questions, for I think they are important.

We're told that a verbal threshold is important; we should concentrate on it. That is the first piece of business. Assemblyman Rafferty rightly pointed out that the bodily injury portion of the insurance premium is 20-some -- the number is 24% -- 24% of the insurance dollar. This, it should be clearly told to the public, does do nothing about the 76% of the insurance premium dollar that goes for personal injury protection or for bodily -- excuse me -- for auto repair, or for uninsured motorist coverage. So if it is only reducing a portion, it is only a portion of that 24%. Is that focus right? Are we clearly explaining to the public the limited portion of what this is doing?

Secondly, if a verbal threshold is so good and is so clearly the answer, why then do only three states out of 50 currently have it -- New York, Florida, and Michigan? And, only one of those three states would have the system such as New Jersey; that is, a verbal threshold combined with unlimited personal injury protection. Florida has a \$10,000 limit, and New York, as I am sure you know from your expertise and experience in this subject, has a \$50,000 limit. We would have a system that mirrors only one other state in the country. If it is so good and so right, why does only one other state have it?

Furthermore, if it is such a good system, and it is going to be a verbal threshold like New York has a verbal threshold and it is going to reduce our rates, and it is going to take us down from being the highest insurance premium state in the country, why then is New York with a verbal threshold the second highest? If first is lousy, being second highest isn't much less lousy.

Some other questions I think you have to ask are-- We have already raised a threshold in a dollar amount sense. We went from a \$200 threshold to a \$1500 threshold, with an annual inflationary rise that has now brought it to \$1700. Now, I understand the arguments against the dollar threshold, and I think they have some merit. Any time you set a dollar threshold, it is a target for which professionals may shoot to make sure you get to that point. While I think that charge libels two entire professions unfairly, in particular cases that may well have happened. It is something to be concerned with.

But what else to be concerned with is, there has been a lot of ballyhoo about this choice of thresholds between \$200 and now \$1700. The Commissioner sent out a very attractive brochure. The Governor has spoken any number of times saying that he has opted for the choices and saved himself \$150, and it is a good thing. Why then, if it has all of this publicity, and an increased threshold is so good -- why then have only 18% of the driving public of this State picked that threshold which was to have guaranteed them savings? Now we're talking about mandating a verbal threshold. I have a hard job understanding this because the touchstone words of today's American politics -- and the Governor in his inauguration touched on them yesterday -- is freedom, choice, opportunity. If only 18% of our people want to go for a particular kind of threshold, and 82% of them want to stay with the existing threshold, is it fair, is it right, does it enhance freedom, choice, and opportunity to tell everybody, "You have to have it this way. We know you have been given a choice before, and you didn't want to change the present threshold; you didn't want to give it away"? The other side of a threshold is giving away a right to sue, a right that right now is a right that every person has, unless they freely and individually give it up. Now we are going to say, "We are going to take that right away from you. Even though 82% of you didn't want to have that right, and you had the chance to give it up and you didn't, we are not going to take that right away from you."

Does that make sense? Is that fair? Now, you might come back and say to me, "It can be fair because we can tell those people that we are going to reduce their rates." Well that brings me to the most important point, and my last point.

The public was sold a bill of goods in 1972 when no-fault was adopted. It was put in the bill -- someone called that legislative rate making, but I know Assemblyman Weidel and then Speaker Kean voted for that legislative rate making -- and mandated a percentage reduction in insurance rates because no-fault was adopted at that time. The public said, "No-fault hasn't worked. That guaranteed rate reduction evidently didn't work." They felt they were sold a bill of goods. They wonder whether we are doing more of that today.

Then we had the 1983 cost containment automobile insurance package. It passed the Assembly, I think, pretty much unanimously. I seem to recall, Mr. Chairman, that you spoke on behalf of it, and I think co-sponsored it. Governor Kean signed it. The Governor and his people said that it would certainly provide a savings of \$150. In fact, my colleague, Senator Russo, put in a bill that would have mandated that, but the Governor said, "No, we can't mandate it, but it will." All of us know what the average saving was from that which government promised would be a saving of \$150. The saving was \$33.

I think we need to know, if we are going to adopt this, is it going to save money? We have to look at what the insurance companies say. The insurance companies say it is going to do better. But I quote to you what a spokesperson for The New Jersey Insurance News said just several months ago in The Trenton Times. The experience with the verbal threshold in other states was: "Their verbal threshold did not cause rates to go down, but in those states it caused it to trail inflation."

We have to be fair and honest with the public. They're looking for permanent, significant, guaranteed reductions. I know that. Mr. Chairman, I have seen you quoted as saying that perhaps this bill ought to be amended to put those kinds of reductions in it. I agree with you; I agree with those who think that. If this is so good -- and I have seen people saying it will save \$80; lately I have seen some people trailing back from that -- put it in the bill. Let's not fool the public. Let's not be accused of fooling the public. If this is better, if we know it to be better, if we know that it is going to save money, let's put our money where our mouth is, and, more importantly, let's not fool the public. Let's make sure it has those savings.

Now, I have some other thoughts about what we ought to do. I have suggested that perhaps -- as has Senator Connors, the Republican Senator from this county -- no-fault is no answer; it ought to be repealed. But that is not the focus of this hearing so I am not going to discuss that. Your focus, you said, was to see about this bill. I would hope that these questions are answered. They are significant

questions that others are asking. I think we need the time and the research to provide the correct answers, but more than anything, whatever you do, make sure it's in the bill -- guaranteed, significant, permanent reduction. That is what our people want.

Thank you, Mr. Chairman and members.

ASSEMBLYMAN LOVEYS: Assemblyman Doyle, if I may.

ASSEMBLYMAN DOYLE: Certainly.

ASSEMBLYMAN LOVEYS: May I just--

ASSEMBLYMAN DOYLE: I didn't think I was going to get away cleanly, Mr. Chairman.

ASSEMBLYMAN LOVEYS: Just to talk about a few of the subjects, and some very pertinent ones that you brought to our attention-- First of all, let me say that we are only trying to act posthaste and with speed, as I have witnessed you doing on some pet measures over the past two years. We are not going to ramrod any bill through Assembly committees, or even the Assembly. What the Speaker would do with bill #1, if it happens to be released from the Insurance Committee-- I don't know when he will post. But I'm sure he'll want to know what Mr. Russo thinks of the bill, if he chooses to post it in the Assembly at an early date.

There will be, I am sure, give and take from both parties, both in the Assembly and in the Senate, because this is really a critical issue that we would all like to get on with as soon as possible. What you said, and what others have said is absolutely true. We're talking today on only one small segment of automobile insurance reform to save premium dollar. The verbal threshold is certainly not a panacea. It is certainly not the answer, just saving the moneys that we would like to save in this whole critical area. We do not intend to stop at the verbal threshold. We want to move forward in maybe four or five other directions dealing with automobile insurance, to see that those reductions do take place.

I can't answer you, nor can others who testified in Newark on Friday, as to the 13% or 18% option-takers. I don't know if it is because of ignorance or because it has not been explained properly to people, or maybe because some of those who are writing the policies

don't understand, possibly, why there haven't been more people accept the options. However, I do know this from talking to most people, people on the street, lay people. They don't want to talk options. They want an insurance policy where they will know what it costs them. They don't want to have to make all these other decisions, and they don't want it to be high in premium. This is what we are going to attempt to do for the people of the State of New Jersey.

I told your counterpart, Mr. Karcher, last Friday, too, John Paul, and I say this sincerely-- With the benefits we have in the State of New Jersey as to automobile insurance benefits, whereas if somebody is injured, that person, whether he or she is injured, their hospital bills are paid for 100%. Their doctor bills are paid for 100%. Then there is the area of pain and suffering, of course, which some people say they should have the right to sue. This is the whole area of where I see the problem. As long as these people are taken care of -- their hospital bills are taken care of -- as long as they can't sue, or they are taken care of for economic loss, I don't think the majority of people in the State of New Jersey want to sue out there so that they will have enough money, if you will, to buy a condominium in Florida or to go south to the Bahamas. But this is happening. It is happening on all fronts. These are the types of things that we think will be a tremendous dollar saving, if you will, if the verbal threshold is adopted.

I want to point out one other thing. Rather than compare the threshold with New York, let's compare it with Michigan because this is what we are closely -- we would be mostly closely following, the Michigan threshold. I would like-- Mr. Doyle, I think it would be interesting for you to hear these figures on the third-quarter pure premium costs. These are claims that are paid for pain and suffering. No medical or other benefits now, just pain and suffering only. These are average driver costs. In the third quarter in 1983, in Michigan -- which has the verbal threshold that we will probably be following -- the average driver cost was \$36.23 -- for the third quarter of 1983. In New Jersey, the third quarter in '83 was \$100. Now the third quarter in 1985, in Michigan, \$36.99, some \$.60 or \$.70 increase. In

New Jersey, \$184.40 versus \$183. You can see the wide difference in Michigan and New Jersey.

Now I'm sure you are going to argue -- and I hope you won't -- there are some differences there, that maybe New Jersey should be a little less than, or Michigan should be a little more than how we arrived at these figures. And I will give you the-- I will even give you a 25% area. We're still \$100 over what we should be if we want to compare the threshold with Michigan.

So I do feel that it will be a savings. I don't think at this point that we should talk about average savings and the verbal threshold because, as you know, with rate-setting and with territories that we have to contend with in the State of New Jersey, it is very difficult to say who will get what savings. But there will be a savings with verbal threshold, and I have to agree with you. Somewhere along the line, if this is passed, somebody -- and it might be us -- is going to indicate to the Insurance Commissioner that we want to see rate reductions immediately.

I would hope that this is our first step, that we will continue to move in this direction, where we can save the people of the State of New Jersey many, many dollars in insurance premium.

Does anyone else have anything to say to John Paul Doyle?
(negative response)

ASSEMBLYMAN DOYLE: Mr. Chairman, thank you. I agree, particularly, with your last point, and the best way to indicate to the Commissioner that we want a rate reduction, is to put it in the bill. The only other thing I wanted to say in brief response is, you mentioned Senator Russo. Certainly, I don't speak on his behalf being here, notwithstanding how often we are, and for how long we have been linked, but I know that Senator Russo has spoken to the Speaker about it. I know, as you know, that the Senate President has formed a commission to give this subject a proper view. I know from the Senate President's public stance about this that he feels that anything that is done by way of rate reduction ought to be put in the bill. I know he has looked with some favor to the idea, and you may want to consider an optional verbal threshold.

I thank you for the opportunity to speak. Thank you, members.

ASSEMBLYMAN LOVEYS: Thank you, Assemblyman. At this time, I would ask Phil Kirschner to speak. Phil? (Mr. Kirschner responds from audience) You're not going to speak? All right. May I call Arthur Stein, please, from the Ocean County Bar Association?

ARTHUR STEIN: Good morning, Mr. Chairman and members of the Committee. My name is Arthur Stein. I am here to represent the Ocean County Bar Association and the thousands of men, women, and children who are our clients. We are here to discuss Assembly Bill A-1, sponsored by Assemblyman Karl Weidel.

It is my understanding that Commissioner of Insurance Hazel Gluck, and representatives from the insurance industry, who are proponents of this legislation, have testified before you last week that the enactment of a verbal threshold will save premium dollars. They say not immediately, but perhaps in 18 months or two years. Certainly, in other words, they all say it will not be now. The only company to testify to a specific number, to my knowledge, has been State Farm. The representative for State Farm, Stanley Van Ness, stated that the enactment of a verbal threshold in New Jersey would save State Farm policyholders 35% of their bodily injury premium, which would be a savings of approximately \$55.

Proponents of the verbal threshold have also stated that it has reduced rates for policyholders in the States of Florida, Michigan, and New York. In response to the proponents of a verbal threshold, let me suggest to you the following:

If a verbal threshold is supposed to save money and cut rates, then we should mandate that savings go into the legislation, so that the consumers will see not only a loss of their rights, but they will also see some savings right now. Since they would be losing their rights, then their rates should be cut now, not sometime, somewhere, maybe two years down the road.

As you know, statistics are wonderful tools. Just as proponents of the verbal threshold can find statistics to demonstrate their position in the States of Florida, Michigan, and New York, other

statistics that are just as valid show that the opposite is true. For example, that the rates some time ago went down in Florida should be no surprise to anyone. At the same time that a verbal threshold was enacted, other rights were also being taken away, such as eliminating the unlimited medical benefits. Florida went from an unlimited medical benefit package to a maximum of \$10,000 per accident. That is why the rates in Florida initially went down.

Let me refer you if I may to the Wednesday, January 1, 1986 edition of The Palm Beach Post, which is a major newspaper published in Palm Beach, Florida. There was a section of that newspaper that day, January 1, 1986 -- now this is several years after the verbal threshold was enacted in Florida -- entitled, "Auto Insurers Seek Rate Hike." I think you will recognize some of the names of the companies referred to in this article. It is datelined Tallahassee, which is the State capital of Florida: "Three of Florida's largest insurance companies are seeking rate increases for automobile policyholders statewide. The result is expected to be auto rate hikes ranging up to nearly 13%. Florida Insurance Commissioner Bill Gunther's office reported yesterday that Allstate, State Farm, and United Services Automobile Association, three of the State's five biggest auto insurers, have filed for rate increases. Although none have been approved yet by the state, Florida law allows the companies to institute the rate hikes almost immediately. The firms would be required to refund premium increases if their requests were totally denied.

"State Farm's 1.2 million auto policyholders in Florida are facing an 11% increase under the rate hikes scheduled to take effect February 1. Allstate is seeking a 6.6% rate hike for its 570,000 statewide policyholders, effective January 23" -- which happens to be today. "United Services Automobile Association, whose rate hike is pending, began collecting a 6.4% increase statewide for its 151,000 customers beginning December 1. The State's other two largest auto insurers, Nationwide and GEICO, have not yet filed for increases for 1986, the insurance department said, but I am sure they will be coming."

The same thing is true for the State of New York. Prior to the enactment of a verbal threshold, New York had open rating. Open rating means that the companies can charge whatever they want. With the enactment of a verbal threshold, New York adopted legislation that required rates to be approved beforehand by the state. Therefore, rates came down. In addition to that, New York imposed a \$50,000 maximum limit on medical benefits. This is in contrast to the unlimited medical benefits that we enjoy in New Jersey. So too in Michigan, 40% savings result for those insureds who elect to make their own health care benefits the primary coverage. They do not save money because the verbal threshold was enacted. They save money because their health care insurer is the primary insurance. It is the health care insurer who pays their bills, not the automobile carrier. In fact, according to a study by Professors Bernard Webb and Claude Lilly, using statistical data that was compiled by the insurance industry from 1975 through 1982, Michigan has shown a premium increase of 108%.

Let us not forget that New Jersey is a very special place. It is in many ways very different from the States of Michigan, Florida, and New York -- thank God -- not because we have always paid more in premiums, even before the introduction of no-fault, but because of a number of relevant factors: New Jersey drivers receive the richest package of benefits in the country; New Jersey is the most densely populated State in the Union; and, New Jersey has more cars per square mile than any other state in the nation. All you have to do is drive our highways. New Jersey is a Corridor State; New Jersey is a recreational State, and perhaps most importantly, because we are an industrialized State, 85% of our citizens already have insurance for medical and hospital coverage.

Let me suggest to you that since 1984, when the reform legislation of 1983 was adopted with bipartisan support of 55 Assemblymen, and when it went into effect, things have been very different in New Jersey. For example, premium rates in 1984, for the first time since the adoption and inception of no-fault in 1972, did not increase. If you look at your bills for the last two and one-half years, you will see that rates have been stabilized. They have not

risen. Certainly that is not true of Florida, as we have seen from The Palm Beach Post, where they have already adopted a verbal threshold, coupled with a substantial limitation on the amount of coverage that is given to anyone who is injured.

I ask you, is no-fault a panacea? If it were, then why did only 16 states out of 50 originally adopt it? If it is such a panacea, why haven't the other 34 states which haven't adopted no-fault joined the original 16 that did? If it is such a panacea, why did the States of Nevada and Pennsylvania, which are amongst the original states to adopt it, repeal it? If it is such a panacea, why do we now need another panacea that we are calling the verbal threshold, to cure the problems that this panacea was supposed to have cured? Just what does this verbal threshold mean to our citizens -- your constituents and their children?

The proposed legislation provides that a person who is injured in an automobile accident would not be able to seek any compensation for his injury, to the interference with his life, the loss of enjoyment that he has suffered, and yes, the pain and suffering that he has suffered, unless one of the three things occurs: death, permanent significant disfigurement, serious impairment of bodily function. What does that mean to the average citizen? It means, for example, that if someone is unfortunate enough to be involved in an automobile accident resulting from the actions of a drunk driver, or some uncaring or negligent driver who ran a stop sign or drove too fast, and if such unfortunate citizen were to suffer a broken pelvis or a severely fractured hip or leg requiring the use of a body cast for several months, that such a person would suffer all of the ignominy of such an accident, all of the interference with his or her normal life style, all of the pain, all of the suffering, without any compensation.

Quite frankly, I am not one who considers negligently inflicted injuries like broken hips, broken legs, broken collarbones, fractured skulls, torn ligaments, or similar such injuries to be anything other than serious. Certainly, when they happen to you or your children and they interfere with your life's work and your life's enjoyment, they are anything but minor. And who is the direct

beneficiary of the loss of these rights? It is the very careless, uncaring, negligent, or worse yet, drunken driver who created all of this havoc in the first place.

New Jersey has always prided itself on being a leader. It has been a leader in industry, in commerce, in legislation, in law, and in numerous other fields. This legislation is a giant step backward. It is a giant step backward because ours is a society of laws. Laws must be accompanied by remedies. The introduction of this legislation eliminates the remedy. It takes us back to a time before we had courts and laws. It will leave people to their own devices. It is inconsistent with human nature, and it is inconsistent with the basic law we operate under in this country, for it says that you can have a wrong act without fault. It is inconsistent with the whole tide of governmental action in this country over the last five years, for it eliminates the rights of individuals to choose for themselves, and replaces it with a decision that is made for individuals by government. That is not only inconsistent with what has taken place in New Jersey in recent years, it is inconsistent with what has taken place in the entire country over the last five years.

Before concluding, Mr. Chairman, I would like to make a comment of a personal note. I am a family man. I have a wife and I have two small children. I have an extended family which includes my parents, both of whom are in their 70s. Speaking not as a lawyer, but as a parent, I simply feel that my children's rights and the rights of my parents' grandchildren are not for sale to any insurance company. Nor do I feel, most respectfully, that they should be sacrificed at the altar of any political position that one group may take vis-a-vis another group.

I think I can speak confidently when I say to you that my non-lawyer friends and associates and acquaintances would agree with me if I say to you that these kinds of decisions as to what rights I should have and what rights they should have and what rights their children should have should be made by me as an individual, and by me as a parent.

With all due respect to you, you are an august group, and I speak most respectfully, we simply feel that you do not have the right to make those decisions for us. I, therefore, urge you respectfully to reconsider the positions that you have previously taken, and to allow these decisions to be made, when they deal with my rights and the rights of the people I am friendly with and the rights of my children, to be made by me as a parent and by me as an individual.

I thank you for your time.

ASSEMBLYMAN LOVEYS: Thank you. Mr. Kelly, do you have a question?

ASSEMBLYMAN KELLY: Yeah, I've got a couple of questions. You threw a lot of figures at me, or at us. I would like to ask you a few questions. In Florida, what is the premium on insurance? You threw a lot of figures about increases, but what do they pay for insurance in Florida? Have you any idea?

MR. STEIN: I do not know. I can tell you that there was an initial drop in the cost of Florida premiums as a result of the verbal threshold, but there are now increases, despite the fact that there is a verbal threshold and a substantial reduction in the benefit package.

ASSEMBLYMAN KELLY: I understand, but I would like to-- You don't know what the premium is though?

MR. STEIN: I do not know what the premium is.

ASSEMBLYMAN KELLY: You addressed the medical expense. Are you saying we should put a cap on medical expense, also? I mean, you hit that, did you not?

MR. STEIN: I referred to the fact that both New York and Florida have capped medical coverage.

ASSEMBLYMAN KELLY: Are you recommending that? I mean, you just left that dangling.

MR. STEIN: I think that individuals should have the right in this State to do that if they wish to do so. Considering the fact that we are such an industrialized State and there are so many of our citizens who have insurance coverage, it is a duplication that makes no sense to me. Therefore, I would urge that type of an option for people.

ASSEMBLYMAN KELLY: Are you recommending, also, that the health insurance be the primary support for--

MR. STEIN: If I, as somebody who has health insurance, decide that it is beneficial to me to have that as my primary coverage, yes. I do not think that we should adopt a system, as we already have, that says, "Not only will you, because you have good sense, have health coverage, we are now going to require you, because you own a car, to have another type of health coverage, which will be primary, even though you have already made payments for the other type of insurance."

ASSEMBLYMAN KELLY: Thank you. I wish you would put those recommendations-- You have come up with criticisms. If you criticize things, you should make recommendations also.

MR. STEIN: I only had 15 minutes, sir.

ASSEMBLYMAN KELLY: Okay.

ASSEMBLYMAN LOVEYS: Jack, do you have a question?

ASSEMBLYMAN RAFFERTY: Yes. Counselor, you came up with a standard, with a measure determining permanent disability and serious impairment. Where did that measure, or that standard-- How did you arrive at that?

MR. STEIN: From the statute in the proposed legislation.

ASSEMBLYMAN RAFFERTY: And the proposed legislation indicates broken pelvic bones and persons being in a cast for months and months, and in pain-- The statute indicates that that would not be considered as serious?

MR. STEIN: I see your question. Under the Michigan statute and the case law that has evolved as a result of the adoption of the verbal threshold as it has been adopted in Michigan, the examples that I gave you would not be covered. People injured as such would not be allowed to sue for their injuries.

ASSEMBLYMAN RAFFERTY: That specific illustration you gave to us -- a person under the Michigan statute would not be allowed to bring suit?

MR. STEIN: That is correct, unless there was a serious impairment of bodily function -- unless there was a permanent, serious impairment to bodily function yes, sir. That is our understanding of the Michigan law.

ASSEMBLYMAN RAFFERTY: One other thing -- and people have mentioned this as they testified -- with regard to the right of citizens, the right to sue. It was made mention a number of times at the hearing in Newark, the freedom of speech, the right to practice the religion, and we would be denying that right. But, as an attorney, when you have a right, that isn't a carte blanche type of thing that one has. There are limitations, such as a person in this room could not stand up and scream "Fire," although his freedom of speech says that he can say whatever he wants. Well, isn't this somewhat of an exaggeration? For anybody to exercise their right to sue, there has to be certain standards met before that suit can be brought.

MR. STEIN: There already are standards. One of the problems with this kind of legislation is that you can have two people in the same room in separate hospital beds who were negligently injured by the same individual, one in an automobile accident, and one in some other form of accident. And, the coverage and protection that the fellow gets as a result of the automobile injury will be substantially different and substantially less than the fellow who is sitting in the bed injured by the same negligence, or the same height of negligence by the same person would have because it was not an automobile accident.

The basic rights are, if there is negligence and you owe me a duty not to be negligent to me, and you injure me and I suffer damage, the basic standard is that I therefore have the right to make a claim against you for my damages. What you are doing with this legislation is, you're altering that standard, but you're only altering it in one area, automobile.

ASSEMBLYMAN RAFFERTY: Thank you, Mr. Chairman. Thank you, Mr. Stein.

ASSEMBLYMAN LOVEYS: Jack, I think the question about costs in Florida -- the pure premium costs which you were not sure of, Mr. Stein -- per automobile for pain and suffering-- Now, Florida versus New Jersey is over \$120 difference. In Florida, it's \$64.38; New Jersey, \$184.40. It's over \$120 difference. I think that is quite a big difference, something to consider.

MR. STEIN: There is no question that there is a dollar difference, but I point out to you, number one, that the package of benefits that we get in New Jersey is substantially greater than in Florida, and number two, as indicated by The Palm Beach Post, there is already a request -- not a request, there already is in effect, increases in the rates in Florida, despite the fact that they have had a verbal threshold for years.

ASSEMBLYMAN LOVEYS: You also neglected to mention, Mr. Stein -- and I think you will agree -- that the bodily injury rate in Florida also went down. You neglected to say that in your testimony.

MR. STEIN: With all due respect, Mr. Loveys, I did say that initially the rates did go down in Florida. I did say that initially.

ASSEMBLYMAN LOVEYS: I have a question for you, sir.

MR. STEIN: Yes, sir.

ASSEMBLYMAN LOVEYS: If our automobile insurance premiums are too high, and you are opposed to establishing a verbal threshold to reduce the amount of litigation in the system, what suggestions do you have for reducing the premiums, and what benefits would you reduce or eliminate?

MR. STEIN: I don't know that you can provide the kind of benefits that are provided under our current law and reduce the cost of premiums in a State like New Jersey. I do not think that is practical. I don't think that can be achieved. There has to be some alternative. The problem is, either we provide our drivers and our citizens with the complete package, or we provide them with something significantly less than the complete package. The question is, do we mandate that, or do we allow the people to make their own decisions? Personally, I feel that I would like to make that decision for myself, and not have it determined by the Legislature for me.

ASSEMBLYMAN LOVEYS: Mr. Stein, Thank you.

MR. STEIN: Thank you.

ASSEMBLYMAN LOVEYS: At this time, may I call on Mr. Bill Fiore, Olean County Senior Citizens' Association.

WILLIAM FIORE: Mr. Chairman and members of the Committee. I don't have copies of my prepared speech, but I will send it to you if you advise it. I didn't know that I needed it. But anyhow, good morning.

I am Bill Fiore, President of the Ocean County Retired Police and Fireman Local 8, and Assistant Treasurer of the Ocean County Senior Coordinating Council, Correspondence Secretary to the Men's Senior Citizens of Berkeley Township, and a member of the New Jersey Automobile Insurance Reform. I thank you for this opportunity to testify on this concern for automobile insurance. Even though I am not going to be discussing verbal threshold -- my cohort will be discussing that -- I am in favor of it.

My testimony is the results of opinions expressed by the members of the above organizations. Although most of what I have to say have been endorsed, some may be my own opinions. Now I am going to elaborate on some of these things that I have.

Since there are legally no uninsured drivers in New Jersey, why are we hit for uninsured drivers' insurance? Number two: Uninsured motorists, and driving while intoxicated is violating every law in existence, and they should forfeit all claims and not be allowed to sue. This is a hot issue in our organization -- it's happened to one of our members -- that an uninsured driver is allowed to sue. I can understand what the lawyer said just before me -- Stein -- that there's a right to sue, but of course, there are things that shouldn't be sued. If it's an illegal act, you should not have the right to sue. And I firmly believe that and all our members push that issue. We've discussed this with Commissioner Hazel Gluck, and we do definitely feel that way.

Automotives should have a twelve month policy -- as you know, a few years ago, the insurance companies did issue a twelve month policy, but now they have gotten away with pushing shorter-term policies on unwary customers. The agents feel the same and were obligated by law to provide a twelve month policy to customers who already have one that was due to renewal. With this omission they managed to convert the vast majority of policies to shorter terms, enabling them to post higher rates sooner than if they had to wait for a year-long policy to expire. We've discussed this also. What we'd like to see-- Go back to the twelve month policy where they don't have the right to charge every six months and increase their rates.

What happened to the five percent decrease promised senior citizens when the new reform was instituted? I am made to understand that it wasn't an error. There was a decrease of five percent, but it did not show due to the fact that we had an increase. That's why I'm suggesting that the insurance companies itemize all their insurance bills so we can see what we actually are paying for. Whether it be a five percent decrease, we want to see it there. And if there's an increase, we want to see why.

Now, according to the National Highway Statistics, we in New Jersey are the safest drivers in the nation. Why then, are we number one in paying automobile premiums? I don't buy that argument that we have the heaviest traffic on our highways. Where does the traffic go when it leaves our highways? Doesn't go in air-- It goes into the other states. And you mentioned Michigan, we are aware of Michigan's plan. So I say that I don't buy either.

I would like to see the insurance companies, after they worked many years of surcharging the bad drivers, put into effect an awards system for the good drivers. If they are doing it, then it should be shown.

Insurance companies are allowed to surcharge your policy if you are only ten percent at fault in an accident. Unfortunately, the insurance company is allowed to set what they feel is your fault in an accident, regardless of any legal decisions. Now I understand there's a bill 78 by Senator Bubba that would set the minimum at 50%, but I feel 75% would be a more fair percentage, due to the fact that then that's truly your fault. If you're 75% wrong, then you should take the brunt of it.

Now, limit the Joint Underwriters Association to only those drivers with proven bad records. Good drivers should be able to choose their insurance company. An insurance company must be required to accept any policy application by a good driver. An insurance agent gets 13% commission for writing a new policy to the JUA and 11% commission for writing a renewal. The Joint Underwriters are supposed to be set up to insure bad drivers and those who can't get insurance elsewhere. But you can see why the good drivers are put in it. Forty

percent of all our drivers are in JUA. Every policyholder -- and this includes the good drivers -- are paying \$12 to the JUA, included in your premium to cover these uninsured motorists.

The changes that I've been hearing discussed today that if presented will not lower insurance premiums if the insurance companies are not forced to pass on to the policyholders the savings that will be obtained. The financial status, profit and loss of all moneys from premiums, investment, and reserve of the insurance company, must be made readily available to the Department of Insurance.

Thank you, and if there's any questions I would like to answer them.

ASSEMBLYMAN LOVEYS: Thank you, Mr. Fiore. Do you have any questions, gentlemen?

ASSEMBLYMAN RAFFERTY: Just one, and I do hope Mr. Fiore gets the copy of that material to us.

MR. FIORE: Yes, I will.

ASSEMBLYMAN RAFFERTY: Thank you.

ASSEMBLYMAN LOVEYS: Good morning, Mr. Weidel. (Assemblyman Weidel comes in) Mr. Fiore, you indicated that you had another gentleman with you that would broach the subject of verbal threshold?

MR. FIORE: Yes, I will. Mr. Carrig?

ASSEMBLYMAN LOVEYS: What's your name sir?

MICHAEL CARRIG: Michael Carrig.

ASSEMBLYMAN LOVEYS: Michael, if you would, please.

MR. CARRIG: Thank you. My name is Michael Carrig. I'm the First Vice President of the Ocean County Senior Coordinating Council, Assistant Treasurer of the New Jersey Coordinating Council of Senior Citizens, President of the Men's Senior Citizens of Berkeley Township.

The drivers of New Jersey must not be misled by persons wanting to change New Jersey auto insurance to a fault system. Only liability insurance would be required. This would mean medical payments would not be paid until who is at fault is determined. Even then, you might need a lawyer in order to collect.

The excessive cost of litigation is one of the reasons our insurance is so high. The terms "fault," or "no-fault," refer to

medical coverage only, not to the damage to vehicles or property. The system we now have started out in 1973 to be a no-fault system, but in 1985 it is as much a fault system as it is a no-fault system. So it is not really a true fault system nor a true no-fault system.

New Jersey's no-fault system defines a serious injury as one that incurs medical bills of over \$200. This allows for lawsuits that aren't warranted and helps raise the cost of our insurance. New Jersey's present system strays from the definition of true no-fault in the true no-fault use of descriptive threshold, called a verbal threshold, which defines what a serious injury is.

A true no-fault system would not allow lawsuits for minor injuries or pain and suffering connected with minor injuries. If under the fault personal injury protection -- the PIP coverage -- on all reasonable medical bills, regardless of who was at fault, loss of income from wages, hiring of someone to perform essential services such as cutting grass and housework, are paid. Why should a lawsuit be necessary?

Under true no-fault system, all catastrophic or serious injuries would be covered same as, and if necessary, you would be able to sue for pain and suffering. According to the Department of Transportation, only 16% of the auto accidents' injuries fall under the catastrophic injuries. Therefore, most claims would be resolved without litigation.

The big plus of the true no-fault system is that there would be much less need for litigation which would contribute to lowering insurance costs along with compensation being paid more swiftly.

Under a true fault system, before any claims -- minor or serious -- are paid, who is at fault in the accident must be determined. This can sometimes take a long time, and if the party at fault refuses to pay, a lawsuit would be needed to settle the claim.

With a true fault system, most accidents take longer to settle, and meanwhile you pay your medical bills out-of-pocket. And lawsuits will most likely be needed to settle the claim. The minus of a true fault system is along with the inconvenience caused, it raises the cost insurance premiums.

The automobile insurance rates in New Jersey must be lower. The drivers and policyholders have paid the highest rates in the nation far too long. The present system of no-fault, which is not a true no-fault system, is not working. The options given to us, which actually amount to a lot less coverage for very little less money are not the answer either. We need a true no-fault system. This can be brought about by Assemblyman Karl Weidel's bill, which eliminates the dollar threshold and replaces it with a verbal, descriptive threshold. A catastrophic fund is needed to go along with this bill.

I also support a bill by Assemblyman Weidel which would set up a commission to study what the rates should be for a medical fee schedule.

The argument that the car means employment, no car means no job, or can't afford insurance, is the very reason that every driver should be insured, instead of approximately 400,000 uninsured drivers. When we were in Trenton a couple of years ago, they said the figure was 700,000 at that time. I'd like to know what happened to the other 300,000 when I get through with some of my remarks -- for there would be no uninsured drivers and force every driver to be insured to protect his employment and privilege to drive. This is not impossible to enforce as some will have us believe, such as: scheduled regular street and highway inspection stops to check on insurance cards;

2) show insurance policies when one renews his registration;

3) the Motor Vehicle Bureau will require all insurance companies to notify it of any cancellation or non-renewal of existing policies not later than ten working days or be penalized. Upon receipt of notification the Motor Vehicle Bureau will immediately notify the local police, or the State Police, who will call on the delinquent owner, request or remove the license plates and return them to the Motor Vehicle. The plates and registration will be returned to the owner only after satisfactory insurance coverage is shown, plus the return of \$50 -- a fine of \$50 -- which goes to the local police or State Police for their time and effort.

Driving is a privilege controlled by law. Once the above action becomes public, the scofflaws will insure themselves in order to

operate their vehicles, and the rest of us will see lower insurance rates. By June of this year, computerization of the State insurance system would allow officials to pinpoint those who don't have valid insurance, and penalize those who do not comply with the law. The consumer was promised lower insurance rates. Where is it? We have not received any decrease in our insurance.

When we were in Trenton two years back, we sat there from about 9:30 in the morning until seven or eight o'clock in the evening, when that bill was passed on the insurance allowing these options. And I know we were told prior to that, as Mr. Fiore brought out, about the five percent decrease in the insurance rates for a senior citizen. We never saw that insurance rate-- It's a matter of fact that some of our meetings, right after this bill had been passed, men brought up some of their insurance policies that showed an increase in their policies, not a decrease. And we hope when you men go back there, and you people go back there to Trenton and take care of this bill, we hope the first thing that you look at is the rate. Unless the insurance rate itself is cut, there will be no cuts in insurance.

You know, here in Ocean County you have 102,000 senior citizens, and we're here looking for their help. Our medical insurance has increased. I hear -- I think it was Mr. Singer, brought in about the different insurances that was going on. If you, say as Mr. Singer said or as Mr. Stein said, about the medical insurance-- If we're going to have to pay premiums on that, the premium on that medical insurance is going to increase if it's going to pick up the loss where it's going to be off the insurance on the car insurance. So it's working both ways.

We're paying enough now on medical insurance. We're overpaying on medical insurance. Because as you know what all the cuts are in Medicare and everything else, the seniors cannot afford it, and we cannot afford these insurance rates on automobiles. Thank you.

ASSEMBLYMAN LOVEYS: Michael, thank you. Mr. Weidel, did you have anything to say about--

ASSEMBLYMAN WEIDEL: No.

ASSEMBLYMAN LOVEYS: Nothing?

ASSEMBLYMAN WEIDEL: Nothing.

ASSEMBLYMAN LOVEYS: All right. At this time, may I call on Mr. Stan Pudnos? Is that-- Did I say that correctly?

ASSEMBLYMAN KELLY: Mr. Chairman?

ASSEMBLYMAN LOVEYS: Yes?

ASSEMBLYMAN KELLY: Is he going to give us a copy of his--

MR. CARRIG: Yes, I'll send you a copy.

ASSEMBLYMAN LOVEYS: Thank you very much.

ASSEMBLYMAN KELLY: We need that quickly.

MR. FIORE: Well, who can we send it to, sir?

ASSEMBLYMAN KELLY: Send it to Mr. Loveys, Chairman of the Insurance Committee, State House, Trenton, New Jersey.

ASSEMBLYMAN LOVEYS: Send it to the State House, Trenton, New Jersey, in my attention, please.

MR. FIORE: Okay. Thank you.

ASSEMBLYMAN LOVEYS: Mr. Pudnos, is he here? (no response) If not, is Mr. James Klagholz? Did I say that name correctly, sir? If you would.

JAMES R. KLAGHOLZ: Thank you. Mr. Chairman, honorable members of the Committee, my name is James R. Klagholz. I'm an independent insurance agent from Seaside Park and I currently serve as Second Vice President for the Independent Insurance Agents of New Jersey.

The Independent Insurance Agents of New Jersey has from the beginning, supported the concept of a verbal threshold for no-fault automobile insurance. In our view, this system represents the most efficient allocation of premium dollars for compensating injured persons.

When comparing alternative means of compensating accident victims, the efficiency of any system is of primary concern. Efficiency, however, addresses many areas. For example, does the system respond quickly? Does it provide for adequate reimbursement? Does it respond without the necessity and expense of a formal dispute? And is it cost effective? These questions underscore the intent of any form of insurance, efficiently compensating those who have sustained financial loss.

Is New Jersey's no-fault system efficient? It provides for reimbursement of an injured person's medical expenses without any dollar limitation. It provides for reimbursement of lost wages, which result from the inability to conduct normal working activities, and it provides funds for essential services, survivors' benefits, and funeral expenses, all in a timely fashion and in a non-adversarial relationship. Unfortunately, however, our system is not cost-effective.

In New Jersey, with a dollar threshold, we continue to support a dual system of no-fault and tort liability. If the primary intent of efficiently compensating those who have sustained financial loss is accomplished by no-fault benefits, then the necessity of other means of compensation is reduced. This represents a balance. A balance between the added cost of no-fault benefits with the reduced costs resulting from restrictions on lawsuits.

The continuance of a dollar threshold prevents New Jersey's system from attaining this balance. Far too many premium dollars are still being allocated to provide duplicative and unnecessary reimbursement.

We felt that the \$200 and \$1700 threshold should be eliminated and replaced with a verbal threshold, one requiring that a person be injured to such an extent that they are unable to perform normal duties before they may file a suit for pain and suffering. Any other alternative is an inefficient use of the reparation system. The no-fault approach with a verbal threshold allows for better compensation and optimum allocation of premiums.

On behalf of myself and the Independent Insurance Agents of New Jersey, I thank you for the opportunity to share my views on this issue.

ASSEMBLYMAN LOVEYS: Thank you very much. Any questions? (no response) Thank you very much.

MR. KLAGHOLZ: Okay.

ASSEMBLYMAN LOVEYS: I think the last person that I will call to testify today is a Mr. Jay Trachtenberg.

JAY TRACHTENBERG: Good morning, ladies and gentlemen. As Chairman Loveys indicated, my name is Jay Trachtenberg. I am here to speak to you as a father, as a husband, as a son, as a motorist, as a resident of New Jersey, as someone who like yourself is cost conscious-- who at the end of the week wonders whether or not there is going to be enough enough money the following week to meet the budgetary needs.

Assemblyman Doyle made reference to some of the remarks apparently made by Governor Kean in yesterday's inaugural address, and he referred to the Governor's reference to freedom. That brings to mind, perhaps, the most basic precept of freedom, one which we have all been taught if we go back in the recesses of our minds to our grade school education, which we can find in the Declaration of Independence, where our founding forefathers speak to us about the guarantees of life, about the guarantees of liberty, and about the guarantee of pursuit of happiness.

These, gentlemen and ladies, are perhaps the most fundamental rights that we, as free citizens of the State of New Jersey and this nation, enjoy-- contrary to those elsewhere. They are not to be taken lightly.

The pursuit of happiness presupposes a certain quality of life. God delivers us into this world, hopefully, with all of our faculties. As children, as teenagers, as adults we hope that we are able to retain for as long as is humanly possible those God-given rights of life, and the right of the pursuit of happiness that is available to us only if we possess all of our physical and mental capabilities.

Mr. Rafferty, you expressed some concern with respect to this right. You posed a question to a previous speaker and suggested that perhaps all rights -- in particular this one -- is not an inalienable right, and is subject to, perhaps, limitation. But I ask you, Mr. Loveys, Mr. Rafferty, Mr. Kelly, Mr. Weidel, would any of you give up the home in which you live without receiving just compensation? You need not answer because I know the answer.

Similarly, would any of you give up; or should you give up; or should your families give up; or should your children give up to

that basic right to enjoy life without receiving just compensation? Because, is not due process part and parcel of our society, and does not due process require that we be compensated in one form or another in a fair and reasonable fashion for the loss of that which is inherently ours? And, is not the right to pursue happiness just as important, if not more important to you than your white picket fence which surrounds your white Cape Cod house where your station wagon, your two point four children, and your English sheep dog reside? I suggest to you that it certainly is.

Why, why, do you want to take these rights -- these very basic rights -- from us-- the fathers, the sons, the husbands, the children, your constituents, our citizens-- without, perhaps, asking whether the same result can be achieved in a different fashion so as not to violate those basic precepts? Why is it gentlemen and ladies, why is it that the insurance industry has been allowed to enjoy privileges enjoyed by no other professionals, industries, or businesses in this State? Has not that industry, because of our times, become a quasi-public utility? Is it not now similar to such industries as those who provide electricity and gas? Should it not be regulated in a similar fashion? Should not there be a greater and in-depth look into the industry to determine whether the fault lies there, as opposed to taking away from us that which is so very basic to our enjoyment of life? Why, may I ask-- Why are they allowed to base their premiums by measuring premiums earned against claims paid? Why is it that their investment income, as great as it is, does not factor into the rate making process? Why?

Why should I as a father, as a son, as a brother, give up the rights of my family and give up my rights when they are enjoying the fruits of investment with impunity? I dare you to answer that question.

Has anyone looked into the quality of their investments? Per chance is this crisis partially precipitated by poor money management? And if so, what can be done or should be done in order to insure that there be no repetition of this waste, which is now being visited upon us -- the innocent? Should there not be rules and regulations which

govern their business and their investments similar to the very stringent rules that govern the businesses of the public utilities that provide us with gas and electric? I suggest to you, ladies and gentlemen, that there is no logical reason; none whatsoever.

It does not take a genius-- It does not take a genius to figure out that if you eliminate claims-- If you eliminate claims, then the insurance industry has guaranteed pure profit. Boy could I have a business like that. I'd love it. So would each one of you. So would everyone in this audience. That is Nirvana. It appears to be where the insurance industry would like to go. Are we going to let them? I certainly hope not.

Mr. Chairman, in your opening remarks, you seemed to imply, as have others, that the crisis which we now face is in large part due to the number, the -- increasing number -- of lawsuits. Now, I am not going to dispute statistically that there are more lawsuits today in 1986 than there were in 1978. I will concede that. But you can't rely upon a statistic unless you also inquire into the validity of that statistic. And in inquiring into the validity of that statistic, do you not have to first determine whether or not the increase in lawsuits is due not to the failure of the no-fault system, but to other extraneous and perhaps equally cogent reasons?

Have you considered that we live longer now than we did in 1978, and that if we live longer we drive longer? Have you considered that we have more drivers now because of the baby-boom children, and because of those senior citizens -- many of whom live here in our County -- that have been blessed with additional time here, which allows them to drive on our highways and byways? Have you considered that our roads, perhaps, are antiquated and cannot accommodate the increased burden placed upon them? Have you considered that we now enjoy greater education because of the media, and consequently greater awareness, so that people now are perhaps more aware of what they may and may not do vis-a-vis resort to litigation? Have you considered, have you considered the affluence which we enjoy which enables more people to own more cars that travel more frequently on these ill-equipped roads? I suggest to you, using the vernacular, to say

that the increase in litigation and the consequent increase in cost to the insurance company is -- to put it mildly -- "nothing more than a bum rap."

I would like to make some suggestions. I think Mr. Doyle's comments with regard to the danger in moving hastily is something well taken. Might I suggest that you consider a revision of the rate making process? Might I suggest that you consider including in the calculation of those rights the investment income and investment return? Might I consider the regulation and/or monitoring of those investments? Might I consider a study to determine whether or not those investments were poor investments at a point in time when our interest rates were so high that the insurance companies wanted desperately to invest in, perhaps, investments which did not yield the return that they had hoped.

Rather than listen to lawyers who admittedly very well may have a vested interest; rather than listen to the insurance companies, who concededly have a vested interest; why not listen to the people? Because we, the people, elected you. And if you don't listen to us, you're not doing your job.

Now, I can suggest several ways to listen to the people. One would be to utilize the records of the Superior Court and send questionnaires to all of those individuals in the past two years, three years, four years, five years, six years, seven years, who have instituted personal injury litigation, and determine what their feeling is. Would they have wanted to give up the rights which you are now asking us to give up? Under what conditions would they give up those rights? Because aren't they the ones who are most affected by what you are suggesting?

We can all thank God that we are sitting here with our health, and presumably, that none of us has ever been involved in the kind of accident that results in any kind of injury with any degree of permanency. But those who have been injured in that fashion certainly have vested interest, and aren't they the ones who would know most, and with the least bias what should or should not be done? Should they not be polled?

Secondly, why not similarly poll that small percentage -- the 18% referred to -- of individuals who chose the more restrictive threshold options? Or conversely, and even better, why not poll the remaining 82% who are the public and your constituents, to find out why, why they didn't join the ranks of the 18% who are in a definite minority?

Why not look into cost containment with regard to property damage claims? Does it have to be us? Does it have to be our wives? Does it have to be our parents? Does it have to be our children? Can't it be an inanimate object? A bumper, a light, a seat, a fender? Doesn't that make more sense?

I'd like to ask you all a question. Have any of you seen the face of someone who's been told that they have no right to sue after they've been involved in an automobile accident which has resulted in some kind of personal injury which they feel has impaired them on a permanent basis and has affected that very basic quality -- the pursuit of happiness? Have any of you ever seen those faces? Have you ever heard the remarks that they make? Maybe there should be some attempt to speak to them and find out how they feel.

In closing I would like to pose this question to you. Mr. Loveys, Mr. Rafferty, Mr. Kelly, Mr. Weidel, would any of you willingly be the victim of an automobile accident which results in an injury which permanently affects the quality of your life for the balance of that life? Would any of you willingly allow any of your loved ones to be similarly involved in such an accident with such a result? Would any of you give up your right? Would any of you give up the rights of your family under those circumstances? I don't think that there's one of you that in good conscience can say, "Yes." You're not here to placate or appease the insurance industry. You are here to reflect the conscience of the people. That is where your responsibility lies first and foremost. The adoption of the verbal threshold, ladies and gentlemen, is nothing more than an across-the-board appeasement of the insurance industry at the cost of your constituents, the public, and my loved ones.

ASSEMBLYMAN LOVEYS: Mr. Trachtenberg, a couple of questions.

ASSEMBLYMAN WEIDEL: Don't leave yet.

ASSEMBLYMAN LOVEYS: Yes, please. Might I ask you, sir, what is your profession?

MR. TRACHTENBERG: I am a lawyer, sir.

ASSEMBLYMAN LOVEYS: Mr. Trachtenberg, what percentage of your practice is devoted to automobile negligence cases?

MR. TRACHTENBERG: Mr. Loveys, I practice in a god forsaken place called New Egypt.

ASSEMBLYMAN LOVEYS: What percent, sir?

MR. TRACHTENBERG: It is a general practice, and I would venture to say that the percentage of personal injury work that I do is perhaps an eighth of my total practice.

ASSEMBLYMAN LOVEYS: How much of a fee would you receive from and award of say, \$20,000?

MR. TRACHTENBERG: That is predetermined by the Supreme Court.

ASSEMBLYMAN LOVEYS: What is that, sir?

MR. TRACHTENBERG: One third.

ASSEMBLYMAN LOVEYS: One third?

MR. TRACHTENBERG: That is correct, sir.

ASSEMBLYMAN LOVEYS: Let me pass on a couple of bits of information I thought you should know when you talk on this subject. If we were to adopt a verbal threshold in the State of New Jersey as Mr. Weidel is offering us, serious impairment of body function or permanent serious disfigurement, you could sue, sir.

MR. TRACHTENBERG: Mr. Loveys, the answer to that is yes, of course I could sue, and of course there will be those who can sue. They will be the misfortunates who have had catastrophic injuries, and I am suggesting to you, Mr. Loveys, that--

ASSEMBLYMAN LOVEYS: Mr. Trachtenberg, I am only making a statement in rebuttal to the statement you made. If it is that serious -- if there is permanent disfigurement -- you can sue. That's all I want to say. Let me suggest one other thing. Assemblyman Karcher had a bill passed that will become effective this July of 1986, where the insurance companies in the State of New Jersey are allowed only three point two percent of income -- investment income. Anything

over and above that three point two percent would become excess profit and will go back to the policyholder. Just make that, again, by way of information, that maybe you did not know.

MR. TRACHTENBERG: That is long overdue.

ASSEMBLYMAN LOVEYS: Okay, sir.

MR. TRACHTENBERG: Long overdue, and certainly most welcome.

ASSEMBLYMAN LOVEYS: Mr. Weidel, did you have question for Mr. Trachtenberg?

ASSEMBLYMAN WEIDEL: I certainly do. As a lawyer, in those States that have no-fault, was it declared constitutional?

MR. TRACHTENBERG: Was it declared unconstitutional?

ASSEMBLYMAN WEIDEL: Was it declared constitu-- Somebody obviously brought suit when no-fault was first--

MR. TRACHTENBERG: Michigan was the first State that brought suit. There was a challenge to the constitutionality in Michigan, and as you know, it was upheld, otherwise it wouldn't be here.

ASSEMBLYMAN WEIDEL: Okay.

MR. TRACHTENBERG: It was similarly challenged in N w Jersey, and it's been upheld. I am not suggesting to you, Mr. Weidel, and please don't misconstrue my comments, that the law as it stands is unconstitutional. I am not suggesting that at all. I'm suggesting to you, sir, that given the framework of the constitutionality of the bill, that we also must take into consideration other very basic rights.

ASSEMBLYMAN WEIDEL: That I'm trying to do. The verbal threshold is in some states, and it was declared constitutional by a court. Lawyers arguing both sides. And you live under the law.

MR. TRACHTENBERG: That's right.

ASSEMBLYMAN WEIDEL: And if it's constitutional, it's constitutional. Everything you said was said by some attorney in front of some supreme court in some state.

MR. TRACHTENBERG: Mr. Weidel--

ASSEMBLYMAN WEIDEL: You're taking away my right. Do you know that Allstate had a poll conducted by Gallup -- one of the most reputable ones -- just last year, and over 80% of the people said they would like a verbal threshold? You talk about asking the people.

MR. TRACHTENBERG: Now, what I'd like to do is personally interview the 80% I'd like to know who they are, I'd like to know how they were chosen, and I'd like to really know if they know what a verbal threshold is. You know why? Because as an attorney, I can tell you this: You may be buying out of some personal injury litigation, but you're buying yourself into definitional litigation. And by that I mean there is going to be a plethora of lawsuits-- a plethora of lawsuits in order to define what is or is not an injury which does or does not fall within that verbal threshold. And that cost, sir, that cost is going to be just as consuming as the cost of litigation is today.

ASSEMBLYMAN WEIDEL: But after a court decides, you'll follow what that decision was--

MR. TRACHTENBERG: Mr. Weidel, that's--

ASSEMBLYMAN WEIDEL: The other trial lawyers were here, in Newark, and one of them did say that if the law's passed there'll be suits. It's like your suits for every other thing. But once that law is laid down, and decisions-- You as an attorney when someone comes to you, you are not going to take it to court. I don't think, you're going to say, "According to my research, this question has been decided by a court, and that's the law." So, yes we'll have some suits. But it won't go forever and ever and ever, it'll define what the courts in New Jersey consider serious, permanent. Won't it?

MR. TRACHTENBERG: That will be a decision imposed by the Judiciary, taking into consideration the legislative intent, and it will be fostered upon those innocent victims of automobile accidents, because I suggest to you the first challenge is going to be your garden variety, run-of-the-mill -- shall we call it whiplash? -- injury which is a term familiar to the public. And, I guarantee you, as sure as I sit here, that the courts of the State of New Jersey are going to find that the "whiplash injuries" are not severe and they are not permanent.

Now, do any of you know people who have had--

ASSEMBLYMAN LOVEYS: Let's not prejudge. Please, let's not prejudge what the courts are going to do. I don't think that's fair. That's your opinion.

Mr. Weidel?

ASSEMBLYMAN WEIDEL: I want to say one other thing, Mr. Loveys, and it is a philosophical difference that I have with Mr. Trachtenberg. You talk-- From an attorney/client point of view, you talk philosophically, but I talk, too, to people. The guy that gets injured in an automobile accident-- He wants to know if his bills are going to be paid, if his doctor bills are going to be paid, if his hospital is going to be paid; can he get back to work? His primary interest is not to bother his family. He wants all the bills paid. That's why we have unlimited medical here under our bit.

His primary interest -- and we probably talk to the same people: "I want to get well; I want my bills paid; I don't want to bother my wife; and, I want to get back on the payroll so I can feed my kids, pay my taxes, and pay my mortgage." You say it in a different way, but isn't that true?

MR. TRACHTENBERG: That is part of their concern, most definitely, and that concern has been adequately addressed by the present system. And, I am a firm believer in the first-party coverage, which is now provided, because that's what it is intended to do, and that's what it does most of the time.

ASSEMBLYMAN WEIDEL: So, what do you want to do more? Do you want to take another bite at the apple?

MR. TRACHTENBERG: You-- That--

ASSEMBLYMAN WEIDEL: After all these things are done and we pay \$1 million--

MR. TRACHTENBERG: Mr. Weidel, that assumes that I am double-dipping, and I am not going to concede that. I am not going to concede that at all.

ASSEMBLYMAN WEIDEL: I can have my opinion of what you are thinking. Thank you.

ASSEMBLYMAN LOVEYS: Mr. Kelly?

ASSEMBLYMAN KELLY: No.

ASSEMBLYMAN LOVEYS: Mr. Rafferty?

ASSEMBLYMAN RAFFERTY: I just have a question. Mr. Trachtenberg mentioned, you know, why don't we listen to the people? Well, we spent eight hours in Newark last week, last Friday -- I

believe it was Friday. We spent time in Dover. We are going down to Cherry Hill this afternoon. We will be in Trenton tomorrow listening to the people, and I noticed when you came up, Mr. Trachtenberg, you mentioned you came as a husband, a son, a father, a taxpayer, a resident -- everything but a lawyer. And, you were requested, you know, "What is your occupation?" which I think we could have drawn that conclusion.

And, as Mr. Stein was up here, he gave the most extreme example of an individual, bedridden, broken pelvis, in a cast, in pain. I can bring another example of a guy who has a flesh wound, goes to an attorney, the attorney says, "We'll sue. I got the doctor set up. You go to that doctor. He will build the bills up," and then he can sue, and then you sit down with the insurance company, and then there is a settlement for a few thousand dollars.

UNIDENTIFIED MEMBER OF AUDIENCE: The whole system is like that, not just insurance. The whole system is like that.

ASSEMBLYMAN RAFFERTY: Sir, I believe you will have a chance to comment if you care to. I don't believe I have interrupted any speaker so far this morning. I would appreciate it if I could just continue, and you are more than welcome to come up.

But, I believe there has been a climate developed in New Jersey, and in this country, and that is: We sue for anything, any time, at any opportunity, and we get what we can out of the system.

Someone testified the other day in Newark, and I think they summed it up. They said, "When you are in an accident in New Jersey, it is like hitting the New Jersey Lottery." And, not that I close my mind to anything, but we have had testimony by attorneys and by doctors saying there is a tremendous abuse of the system. And this is no reflection on you, sir, or your profession, but there are elements in every profession to take advantage of it. And, I don't want to see that man or that woman who lays in bed suffering for eight months with a broken pelvis -- pelvic bone -- not able to sue, but I sure want to see the person who is a malingerer, who feigns injury, who rips off the system--

I have no compassion for the insurance industry; nor do I for lawyers. I think I am here representing the people, and I will take into consideration everything that's said at these hearings. And, I am not here to eliminate all claims. That was a broad statement that you seemed to make, that because of a possible implementation of the verbal threshold would eliminate claims-- We are not here to eliminate claims; we are here to weed out those frivolous and unwarranted suits that clog our court calendar.

I appreciate your comments, Mr. Trachtenberg.

MR. TRACHTENBERG: Thank you, Mr. Rafferty.

ASSEMBLYMAN LOVEYS: Thank you, Mr. Rafferty. Mr. Zecker?
(no questions)

Ladies and gentlemen, that will conclude our hearing today. I want to thank everyone for coming, and I want to thank you from Ocean County for making us welcome. Thank you so much.

(HEARING CONCLUDED)

APPENDIX

JOHN T. HENDRICKSON, JR.

ASSEMBLYMAN, DISTRICT 9 (OCEAN-BURLINGTON)

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JANUARY 22, 1986

JOHN T. HENDRICKSON, JR.
ASSISTANT MAJORITY LEADER
ASSEMBLYMAN, DISTRICT 9
(609) 597-4151

STATEMENT OF ASSEMBLYMAN HENDRICKSON - PUBLIC HEARING

ASSEMBLY INSURANCE COMMITTEE, DOVER TOWNSHIP MUNICIPAL BLDG.,

TOMS RIVER, N. J., 9:00 A.M., JANUARY 22, 1986

AUTO INSURANCE REFORM IS AN ISSUE FROM GOVERNOR KEAN'S FIRST TERM WHICH REMAINS UNRESOLVED. THE NEW REPUBLICAN MAJORITY IN THE ASSEMBLY IS COMMITTED TO MAKING THIS ONE OF OUR MOST IMPORTANT AND IMMEDIATE PRIORITIES IN 1986.

THE SOLUTION THAT I SUPPORT, ALONG WITH ASSEMBLY SPEAKER HARDWICK AND GOVERNOR KEAN, IS RETENTION OF THE NO-FAULT SYSTEM, WITH THE INSTITUTION OF A DESCRIPTIVE, OR VERBAL, THRESHOLD. THIS WILL LIMIT THE FRIVOLOUS LAWSUITS WHICH COST CONSUMERS SO MUCH MONEY AND DELAY CLAIM PAYMENTS.

STUDIES COMPLETED ON THE ISSUE BY COLLEGE PROFESSORS, GOVERNMENT AGENCIES, ATTORNEYS, ACTUARIES AND INSURANCE EXPERTS INDICATE THE VERBAL THRESHOLD IS THE WAY TO GO. THAT'S WHY THE EDITORIAL BOARDS OF MOST NEW JERSEY NEWSPAPERS HAVE ENDORSED THE VERBAL THRESHOLD.

MORE

1x

NEW JERSEY'S AUTO INSURANCE WILL ALWAYS COST MORE THAN MOST OTHER STATES BECAUSE OF OUR VERY HIGH POPULATION DENSITY. HOWEVER, BY REDUCING LEGAL COSTS, WE CAN HAVE AN AUTO INSURANCE SYSTEM THAT PROTECTS PEOPLE WITHOUT THE EXORBITANT COSTS WE FACE TODAY.

OUR NEIGHBORS IN NEW YORK STATE HAVE ONE OF THE BEST AUTO INSURANCE LAWS IN THE COUNTRY. IT COMBINES A NO-FAULT SYSTEM WITH A VERBAL THRESHOLD THAT ALLOWS PEOPLE TO SUE FOR SERIOUS INJURIES ONLY.

NEW JERSEY HAS BEEN CITED AS HAVING THE NATION'S WORST AUTO INSURANCE LAWS. WE ALLOW CLAIM PAYMENTS REGARDLESS OF FAULT, AND YET AT THE SAME TIME HAVE A THRESHOLD OF ONLY \$200 FOR LAWSUITS, THE LOWEST SUCH THRESHOLD IN THE NATION. THE RESULT IS THAT NEW JERSEY AUTOMOBILE OWNERS ARE PAYING FOR A NO-FAULT SYSTEM IN ORDER TO SAVE MONEY ON LAWSUITS, THEN EFFECTIVELY PAYING FOR A TORT SYSTEM AS WELL BY HAVING AN EXTREMELY LOW \$200 LAWSUIT THRESHOLD.

THIS COMBINATION OF NO-FAULT AND TORT IS A DOUBLE INSURANCE SYSTEM THAT IS SPELLING DOUBLE TROUBLE FOR OUR STATE'S AUTO INSURANCE RATEPAYERS. THE LESSON OF NEW YORK STATE IS INSTRUCTIVE HERE.

NEW YORK HAD USED A DOLLAR CEILING BASED ON A VICTIM'S MEDICAL EXPENSES. IT USED TO ALLOW VICTIMS TO SUE IF THEY HAD MORE THAN \$500 IN MEDICAL BILLS.

MORE

2X

JANUARY 22, 1986

THE DOLLAR THRESHOLD ENCOURAGED ABUSES SUCH AS INFLATED DOCTOR BILLS, FAKED INJURIES, AND THE LIKE. WITH A \$500 THRESHOLD, IT WAS NO CHALLENGE TO BECOME SERIOUSLY INJURED IN NEW YORK. SINCE LAWSUITS WERE NOT EFFECTIVELY RESTRICTED, COSTS ROSE RAPIDLY. INSURANCE COMPANIES WERE PAYING FOR A LOT OF LAWSUITS AND FOR THE REQUIRED NO-FAULT BENEFITS AS WELL. INSURANCE RATES ROSE 37% A YEAR IN NEW YORK FROM 1974 TO 1976.

THE NEW YORK STATE LEGISLATURE REPLACED THE DOLLAR THRESHOLD WITH A DESCRIPTIVE OR VERBAL ONE IN 1977. LAWSUITS DROPPED BY ONE THIRD. EIGHTY PERCENT OF ALL AUTO NEGLIGENCE LAWSUITS HAVE NOW BEEN ELIMINATED IN NEW YORK, AND RATE INCREASES HAVE AVERAGED LESS THAN FIVE PERCENT A YEAR SINCE 1978.

NEW JERSEY IS CURRENTLY IN THE TRANSITION PHASE THAT NEW YORK WAS IN IN THE MID-1970's. WE HAD FIRST A \$200, NOW A \$200 / \$1,600 SPLIT THRESHOLD, AND RAPIDLY RISING RATES. THE NO-FAULT SYSTEM HAS ENSURED REASONABLY EQUITABLE AND RAPID PAYMENT FOR ACCIDENTS, BUT THE LAWSUITS HAVE CONTINUED UNABATED BECAUSE OF THE LOW THRESHOLD OPTIONS. EVEN \$1,600 IS LOW COMPARED TO OTHER STATES. IT'S TIME FOR US TO TAKE THE STEPS THAT FLORIDA, NEW YORK, AND MICHIGAN HAVE TAKEN, AND INSTITUTE A VERBAL THRESHOLD.

NEW JERSEY HAS BECOME A LEADER IN MANY AREAS IN THE LAST FOUR YEARS. LET'S TAKE THE LEAD IN AUTO INSURANCE AS WELL, BY JOINING THE

MORE

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GROWING NUMBER OF STATES WITH A NO-FAULT LAW COMBINED WITH A VERBAL THRESHOLD.

I WOULD LIKE TO INSERT INTO THE RECORD AN ARTICLE FROM THE SEPTEMBER, 1984 CONSUMER REPORT MAGAZINE, SENT TO ME BY A CONSTITUENT, AND A COPY OF THE NEW YORK STATE NO-FAULT LAW.

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