

March 11, 1976

CLERK: The Committee amendment reads as follows: Read Committee amendment #5. See page 795 and 796, Journal.

SENATOR SCHMIT: Mr. President, members of this Legislature, the amendment which you just read as amended by my amendment leaves us subject to the discussion that rose here yesterday relative to the description of economic loss and there have been some discussions about this in reference to the definition of economic loss. I believe Senator DeCamp has worked with me to provide a different definition. I would like to give that to you, if I could. I would like to have Senator DeCamp read that definition, please, if I could.

SENATOR DeCAMP: Mr. President, members of the Legislature, the heart of the bill, the heart of the legislation gets down to what a person can recover. In other words, what constitutes damages. It was my feeling that the way Senator Schmit had proposed to amend the economic loss or damages would have the affect of writing out of the recovery or any substantial recovery, any fair recovery, about three-fifths of the population. So I proposed to the doctors and to Senator Schmit a complete substitute which describes economic loss or damages, which I say is the heart of the bill, because when all is said and done, it is what you can recover and what you can recover is limited by whatever definition you give your losses or damages. So the proposal I would have would read like this, and I will pass it out now. They are making it and passing it out. "Damages recoverable in any action shall be economic losses as defined in this act which have been or reasonably may be sustained by the claimant as a direct and approximate result of the defendant's wrongful acts as established by a preponderance of the evidence," and then, of course, the actual definition of economic loss and here is where the departure is very significant from Senator Schmit and the doctors original proposal. Economic losses as used in this act refers to those general or special losses which have a direct effect on the plaintiff's present or future ability to earn, which might impair the plaintiff's ability in his or her preparations to attain an earning capacity, or which pertain to his or her present or future financial conditions in any way. It includes not only the medical, hospital and other reasonable expenses incurred which might reasonably be foreseen to be incurred in the future and the loss or impairments of the ability to earn in any occupation in which the plaintiff is qualified or could be reasonably expected to become qualified at any time in the future, but it also includes the loss of the reasonable expectations of any benefits which could reasonably have flowed to the injured party at any time in the future in the absence of the wrongful act involved." Let me explain by practical examples why I think you need to have a definition such as this and why I would hope that Senator Schmit would go along with such a definition because it would be difficult, it would be difficult for me to support the bill otherwise. Let's take a practical example. A