

SENATOR McFARLAND: Thank you, Mr. Lieutenant Governor and fellow senators. There has been a lot of conjecture on the floor today, and there's been a lot of statements and seemingly contradictory testimony about the merits of this bill. I'm going to try to keep it fairly simple as far as my arguments in favor of the bill.

PRESIDENT: Senator McFarland, may I interrupt you a minute.

SENATOR McFARLAND: Sure.

PRESIDENT: (Gavel.) Could we hold it down so we can hear the speakers, please. Thank you.

SENATOR McFARLAND: Thank you very much. The simple fact of the matter is that I think 48, possibly 49 states have passed some type of comparative fault legislation. Almost every other state in our United States has passed a comparative fault bill similar or in some...at least in philosophy similar to the bill we're considering today. We, as a state, are far behind the times as far as how we handle civil litigation with respect to personal injury claims. The slight gross negligence standard is a standard of the past, it is a standard of the 1910, the 1920 era. In the past 50 to 60 years almost all the states in our United States have went to a comparative fault standard, and the reason is because the comparative fault standard is much fairer, both for plaintiffs and defendants. We ought to be embarrassed by the fact that in 1988, 33 of us voted in favor of this, almost exact bill, 33 people, in 1988, said, yes, this is good policy, this is a good way to improve the system of civil litigation in our state. And then we have a veto of that legislation after the session is over, so we can't even come back and override that veto. The veto was a mistake. The embarrassing thing is that now we come back with the same bill last year, and I think there were not 25 votes to get it advanced past General File. The embarrassment is that it shows how uninformed and uneducated a number of senators are on this issue. We owe a duty to the people we represent to be educated and informed on these issues. I think if any one of you who, and I don't think you have to be a lawyer to understand the issues involved here. If any one of you would just sit down and read the issues on your own, study what has been done in other states, ask yourself why have the overwhelming majority of our states and the other states in the United States passed a form of comparative fault liability you would come to the answer