

negligence was slight as compared to the gross negligence of the defendants in each case. So not only does the...does the moving party need to show negligence and need to show proximate cause or cause of the accident but they must show absence of negligence, in effect, or show that their negligence was only slight. That is a standard that simply is...not only is that archaic, it is difficult to understand and it is not consistent with the totality of the body of law that we deal with in Nebraska which is the law of proximate cause, but for the negligent acts of someone, your injury would not have occurred. So the concept of slight gross simply...and I think all the lawyers or I hope all the lawyers in this body would agree with me that the slight gross concept just doesn't make any sense and it ought to be abolished. Now where there is, I think, some debate, I know from Senator Kristensen, and he suggested some options, and others, is in the area of joint and several liability. What joint and several liability means is that if you are a moving party in a tort action or a negligence action and you sue a number of defendants, and that's a common occurrence where there are more than one potential negligent parties in a case. In Nebraska today, if you are successful in getting through those hoops that I have described in proving proximate cause and proving that your negligence was slight as compared to the gross negligence of the defendants, and you get to the jury and the jury finds, yes, plaintiff, you are entitled to a judgment for \$100,000 against all of the defendants named in the case, no matter what their percentage of fault may be, we are going to allow you, plaintiff, to go against any one of those defendants and recover the full amount of the judgment for \$100,000 no matter what the degree of fault of that individual defendant may be. So that's the system that exists in Nebraska today and it, obviously, I'm sure Senator Kristensen will point out and will want to debate these points and there are lots of small, fine points in the law of joint and several liability and the law of liability in general but, generally, that's the scenario in Nebraska. I feel and have felt since I've been here and I've been practicing law for 12 years or I don't know how many years now, if you take away the time in the Legislature, maybe 10 years, but be that as it may, that system just doesn't...just isn't fair. It's not fair to the moving party, the slight gross standard is not fair to the moving party, it's too heavy a burden and it's not consistent with existing law. And the joint and several liability part of the law is not fair either because you get into the area of deep pocket judgments where a plaintiff can choose who he or she wants to collect from