

February 1, 1991 LB 88

Mr. Speaker.

SPEAKER BAACK: You've heard Senator Coordsen's closing. We will now proceed to a vote on the Coordsen amendment to the Kristensen amendment. All those in favor vote aye, opposed vote no. Have you all voted? Record, Mr. Clerk.

CLERK: 10 ayes, 15 nays, Mr. President, on adoption of the amendment.

SPEAKER BAACK: The amendment fails. We'll now go back to the Kristensen amendment, and on that we have first speaker is Senator Ashford.

SENATOR ASHFORD: I believe we have a...do we now have the division of the question set forth, Mr. Clerk? I would move that the question be divided, Mr. Speaker, along the lines as set forth in the amendment, which I believe Pat has, essentially into three parts, is that correct? Two parts, one is the political subdivision part, and the second part deals with joint and several liability, is that correct? I believe that's correct, and I would make that motion.

SPEAKER BAACK: I would rule that the amendment is clearly divisible. Okay. We will then deal with the first part of the amendment, which is pages 1, 2, and through line 19 on page 3. We'll deal with that one first. And, Senator Ashford, do you wish to address that?

SENATOR ASHFORD: Yes, just so that we can set out what we're talking about, Section...the first divisible question, pages 1, 2 and 3, deals with the issue that we have touched upon, and that's the economic-noneconomic damage issue. I have given my arguments concerning that. I would only say to you again that there are two reasons to vote against this, and I'm sure we will have some further debate on it. But the first reason is that the amendment is poorly drafted, and there are terms in those paragraphs which will result in an ordinate number of appeals on the issues presented. One of the issues is, what is an objectively verifiable economic damage? That is a very ambiguous term and will lead to a considerable number of appeals, many more than what we have now. Remember, that in the law, as it is today, what a jury is given as an instruction on damages, and that instruction says, ladies and gentlemen of the jury, if you find that the plaintiff has met his or her burden