

contributory negligence law between September 5th, which would be the effective date of the law, and the operative date, which is January 1, 1992. That is a risk that the state cannot afford to take, and the risk is that you'd have no law in that four-month period of time, not a risk that we can live with. So, what this amendment does is clarifies and deals with that repealer, one, it also prevents the possibility of some of the lawsuits occurring challenging the constitutionality because it doesn't have repealers. It also looks at, there is a section in here where we refer to sections three and four when you go to make a release. In other words, if someone gets out of the law suit early, we did not refer it back to Section 3 of the bill, that needs to be done. Those are the clean up sorts of things to LB 88 that everyone pretty much agrees to, not saying that it absolutely is there but that we are trying to avoid the risk of having no comparative fault law between September and January, also not having a slight gross system but not having any contributory negligence law in the State of Nebraska. That is a risk we cannot take. That is the reason Senator Baack has special ordered this because the system can not afford to have that exposure. The only vehicle was LB 262 which was my bill dealing with comparative fault, so it is in the same area dealing with those sorts of things. LB 262 had some provisions that people were uncomfortable with. During the last two months, what we have done, is taken those groups of people together and tried to understand what our differences were in LB 262 in regards to some of the immunities, particularly in the areas of issuance of inspections and permits and there were some provisions for road signs and liabilities that were under the old public duty doctrine and the provisions that relate to political subdivisions and the stated immunities in here are in part a response to some of the recent court decisions that eroded the protection previously enjoyed by public entities under the public duty doctrine. This is particularly true in the area of inspections, which are now in the amendment, conducted by the state and its political subdivisions. With regard to the inspections, the liabilities that attach, there must be a known hazard to the public and the inspecting entity, either through its actions, must show a reckless disregard for the health and safety of the public and that is how they will be sued. LB 88 is still valid law. LB 262 does two things, it cleans up the risk that we have for having no tort law for four months or having a tort law that is unworkable. It also takes and places into place the "agreed upons". I want to stress the "agreed upon" provisions, both sides have had some difficulties