

who was injured could recover only 2 percent, and you said in addition to that, that person could recover for economic damages. Is that what you told me?

SENATOR BERNARD-STEVENS: Senator Maurstad.

SENATOR MAURSTAD: The injured person would be able to collect the economic damages of the...that would be allocated to the fleeing driver so that the political entity would have to assume the responsibility for the economic damages of the fleeing driver.

SENATOR CHAMBERS: Senator Maurstad, if I'd start reading line 13, on page 2, this is what it says: "In the case of death, injury, or property damage to any innocent third party proximately caused by the action of a law enforcement officer employed by the political subdivision during vehicular pursuit and in the absence of negligence on the part of the law enforcement officer, the economic damages not collectible from any other source shall be paid to the innocent third party". That would be available only if the officer is not negligent. If the officer is 2 percent negligent, the person's worse off than if he wasn't negligent at all. If he wasn't negligent at all, then the person could recover economic damages. If the person...if the officer is 2 percent negligent, it cuts out all of this rest about in the absence of negligence because it cannot apply. So the person would recover 2 percent of the damages. All right, you're shaking your head, correct me.

SENATOR MAURSTAD: Section 25-21,185.10 talks about when two or more defendants, as a part of a common enterprise or plan act in concert and cause harm. In any other action involving more than one defendant, the liability of each defendant for economic damages shall be joint and several and the liability of each defendant for the noneconomic damages shall be several only and shall not be joint. And so our current contributory negligence statutes is what provides the circumstances that they would recover the economic damages in the example that you gave.

SENATOR CHAMBERS: But, Senator Maurstad, the specific rules the general, and you're creating a specific basis for recovery in this bill. And the specific basis of recovery exists when there is not negligence by the officer, that's the only time the economic damages can be recovered. You are stating that