

businesses, but I also want to protect the Nebraska individuals that they also have a right. And so I think we need to take a look at this bill as a way that would be fair for everybody and try to work out a compromise that is good not only for Nebraska business, but it's also good for the individuals that want to or that have a problem and have to sue in order to collect damages and I think it's their right so we need to make sure...

PRESIDENT MOUL: One minute.

SENATOR SCHELLPEPER: ...we come up with a good compromise here that will be acceptable to both sides and I think we can do that. We need to take a look at these amendments and see which one that it actually is. Thank you very much.

PRESIDENT MOUL: Thank you, Senator Schellpeper. Senator Will.

SENATOR WILL: Thank you, Madam President, members of the body, I want to talk for a minute and make sure we know exactly which portion of the amendment we're talking about. Essentially we've divided the Will-Avery amendment into three portions. This is probably what I would characterize as the bulk of it certainly is textually. This is the portion of the amendment that I addressed that retains the statute of repose with some exceptions. And basically the one exception under this portion of the amendment would be that there would be a presumption that the useful safe life of a product is ten years, but that presumption would be rebuttable by the plaintiff, by the person who is alleging to have been injured by the product. If the plaintiff can come in and demonstrate that indeed that product by a preponderance of the evidence has a useful life beyond ten years, then the plaintiff would still have the chance to recover if the plaintiff again proves that the product did cause the injury. I think that obviously this is the main component of the departure from the original concept of LB 137 which would have done away with the statute of repose all together. Now Senator Abboud and Senator Schellpeper have both hit the nail on the head when they are talking about the effect that the current statute of repose has ultimately. The primary function of the statute of limitations of product liability as it exists in the State of Nebraska right now is to protect out-of-state manufacturers whose products injure Nebraska citizens because injuries that occur in the State of Nebraska by a product, whoever manufactured it, if that product is over ten years old currently the person who is injured simply cannot recover under