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Floor Debate
January 13, 2014

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SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the fourth day of the One Hundred Third Legislature, Second Session. Our chaplain for today is Senator Wightman. Please rise.

SENATOR WIGHTMAN: (Prayer offered.)

SENATOR GLOOR: Thank you, Senator Wightman. I call to order the fourth day of the One Hundred Third Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

CLERK: I have a quorum present, Mr. President.

SENATOR GLOOR: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR GLOOR: Are there any messages, reports, or announcements?

CLERK: There are. Mr. President, I have a Rules Committee report as offered by the Rules Committee. It was filed with me on Friday. Your Committee on Revenue chaired by Senator Hadley reports LB488 to General File. I have a notice of hearing from the Retirement Systems Committee, that's signed by Senator Nordquist as Chair. Communication from the Speaker to the Clerk directing that LR395 be sent to Reference for referral to a standing committee for purposes of conducting a public hearing. And, Mr. President, the lobby report as is required by statutory Section 49-1481, those will be acknowledged and inserted in the Journal. That's all that I have, Mr. President. (Legislative Journal pages 161-183.) [LB488 LR395]

SENATOR GLOOR: Thank you, Mr. Clerk. We'll now proceed to the first item on the agenda, Mr. Clerk.

CLERK: Mr. President, Senator Schumacher offers LR394. It's a resolution expressing the sympathy of the Legislature to the family of former State Senator Jennie Robak. [LR394]

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SENATOR GLOOR: Senator Schumacher, you're recognized to open on your resolution. [LR394]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. On Friday, the 3rd of January of this year, our colleague and former senator, someone who served the people of the 22nd District, was killed in a tragic car accident. And I offer this resolution for the Legislature to extend its sympathy to the family of Genevieve "Jennie" Robak. WHEREAS, Genevieve "Jennie" Robak first qualified for election to the Nebraska Legislature in 1988 as a write-in candidate, winning the general election and ultimately serving in the 22nd District proudly as a state senator for 14 years; and WHEREAS, while in the Legislature, Jennie actively served her district and the state and took every constituent concern seriously, working tirelessly until she found a solution for every constituent issue whether large or small; and WHEREAS, Jennie was a zealous advocate for the poor, the mentally ill, and those less fortunate and championed legislation to protect stalking victims and to promote mental health parity; and WHEREAS, Jennie was proud of her votes in support of research that could provide lifesaving cures for the many people suffering and in pain; and WHEREAS, although Jennie was a strong Democrat, she worked across party lines with many of her Republican colleagues and even supported the election of some Republican candidates; and WHEREAS, Jennie was a ball of energy, unpredictable, impulsive, and refreshingly candid in her opinions; and WHEREAS, Jennie Robak passed away on January 3, 2014. NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED THIRD LEGISLATURE OF NEBRASKA, SECOND SESSION: 1. That the Legislature extends its sympathy to the family of former State Senator Jennie Robak, and recognizes Jennie's dedicated years of service to the state and her community. 2. That a copy of this resolution be sent to the family of Jennie Robak. With that, I'd ask your green vote. Thank you. [LR394]

SENATOR GLOOR: Thank you, Senator Schumacher. Members, you've heard the opening. There are senators that wish to be heard. Senator Chambers, you are recognized. [LR394]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, being the oldest person on this floor, you might not find it unusual for me to repeat now something that I've been saying. My brain cells are Teflon. Nothing sticks. You youngsters have Velcro. Everything sticks. But some things stick, and Jennie is one of those items which sticks and will be with me as long as I'm here. And I know that might cause some of you to hope that I'll be here a little longer for the sake of Jennie. But if it were not for her, you'd wish that before I finish this comment I'd croak. The manner of her death was indeed tragic. When I read in the paper without the name of the victim being given, I thought it was a very, very unfortunate type of thing which could happen in my mind only in fiction. Then when I found out that it was Jennie, then kind of an

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oppressive feeling came over me. Although I don't view death in the same way that other people do, it's regrettable when somebody loses a parent, no matter how old that somebody is, no matter how old the parent is. Some things are very difficult to prepare yourself for. So I'm not going to go into the gloom and doom kind of statements. I'm going to do as I would do if it were a member of my family, mentioning the kind of thing that typified our relationship. Jennie and I had an understanding that a lot of people didn't realize. And I'll tell you what we had been plotting before she left the Legislature. We got along so well we had decided that I was going to adopt her. Then I was going to send her to medical school. And after she got all of her credentials and was a doctor, she would repay me by taking care of me in my old age and providing for all my ills, aches, and pains that the elderly people get. There is not a lot else that I will say but which I could say. But I wanted to get that little anecdote to let you know that I really had what I felt was a unique and pleasant relationship with Jennie Robak. And the only thing I'm really sorry about is that she left here in the way that she did. Some people feel that the best way to go would be in your sleep peacefully. But because for myself, speaking only for myself, if I were a part of speech, I would be an action verb. So the way I would like to go is in mid-stride. Thank you, Mr. President. [LR394]

SENATOR GLOOR: Thank you, Senator Chambers. There are senators wishing to be heard. Seeing none, Senator Schumacher, you're recognized to close on your resolution. Excuse me, Senator Schumacher. Senator Dubas. [LR394]

SENATOR DUBAS: I, too, would just like to add Senator Robak was my state senator when I served on the school board in Fullerton and that's how I got to know her. And it was just such a pleasure working with Senator Robak. I kind of got to see both sides of her. She was a free spirit. She was a bright, intelligent woman. When she was committed to something, you knew she was going to see it through to the very, very end. And no matter how it turned out, you always knew that it was...that if it didn't turn out the way she hoped, it wasn't because she didn't give it all of her effort. So I just would like to thank Senator Schumacher for introducing this resolution. We should be recognizing her. I was able to go to her memorial service on Friday, and it truly was a celebration of Jennie Robak. I think it really epitomized her life; and it was a celebration of all the good things about her as a woman, as a mom, as a grandma, and as a state senator. So just would like to extend my well wishes to her family. And thanks, Jennie, for all that you did for us. [LR394]

SENATOR GLOOR: Other senators wishing to be recognized: Senator Ashford. [LR394]

SENATOR ASHFORD: Mr. President, I won't go on and on about this, but I do also want to discuss my friend Jennie Robak. I had many years of service with her. And the celebration on Friday was truly a celebration, a beautiful ceremony, and a wonderful speech by our good friend and colleague, Dwite Pedersen, who spoke so highly of

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Jennie and her work that she did in the Legislature with him in the areas of mental illness, mental health, and substance abuse. I, too, worked with Senator Robak on mental health issues. She was truly a teacher on that issue and really...and so many occasions when the body would be dealing with issues where mental health was critical to the discussion, she would inform us in a very respectful way of the issues surrounding mental health. But I, too, on a personal level had many out-of-the-body discussions with Senator Robak that were quite, quite fun and entertaining, both in Columbus and in Lincoln. And she...most importantly her discussions about her family and her grandchildren that was discussed on Friday at the service were really hilarious. And she had a wonderfully uplifting way of viewing the world and was quite a good...I was quite a good friend of hers. And I must say that I will miss some of the after hours, having a glass of wine events that we would have and we won't be having now. But I, too, wish to express my sincere sympathy to the entire family, which is relatively large, much larger than I guess I realized as we saw at the service. And just wonderful comments by Jennie's son-in-law about all the adventures of the Robak family. So thank you, Mr. President. [LR394]

SENATOR GLOOR: Thank you, Senator Ashford. Other senators wishing to be heard. Seeing none, Senator Schumacher, you're recognized to close on your resolution. [LR394]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. And thank you, my colleagues, for your eloquent statements in memory of Jennie. Jennie was a personal friend of mine. And although I...Republican side of many national issues, Jennie was a strong Democrat. She was always there. She was always supportive. She is the epitome of what the nonpartisan Unicameral should be and is. And we certainly extend our sympathy. I would encourage your green vote. Thank you. [LR394]

SENATOR GLOOR: Thank you, Senator Schumacher. Members, the question is, shall LR394 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LR394]

CLERK: 47 ayes, 0 nays, Mr. President, on the adoption of LR394. [LR394]

SENATOR GLOOR: The resolution is adopted. We continue with the agenda, Mr. Clerk. [LR394]

CLERK: Mr. President, new bills. (Read LB821-836 by title for the first time, Legislative Journal pages 183-186.) That's all that I have at this time, Mr. President, with respect to new bills. [LB821 LB822 LB823 LB824 LB825 LB826 LB827 LB828 LB829 LB830 LB831 LB832 LB833 LB834 LB835 LB836]

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SENATOR GLOOR: Thank you, Mr. Clerk. Continuing with the agenda.

CLERK: Mr. President, Senator McCoy, as Chair of Committee on Committees, would offer a report from the Committee on Committees.

SENATOR GLOOR: Senator McCoy, you're recognized to open on your motion from the Committee on Committees.

SENATOR McCOY: Thank you, Mr. President. Good morning, members. I would offer up to you the Committee on Committees report. We met last...at the end of last week. It's reflected in the Journal as it was read across on Friday that Senator Crawford has been reassigned to General Affairs Committee and the Urban Affairs Committee. Senator Murante has been reassigned to the Transportation and Telecommunications Committee. And newly sworn in member, Senator Garrett, has been appointed to the Banking, Commerce and Insurance Committee and the Government, Military and Veterans Affairs Committee. And with that, Mr. President, I would ask the support from the body for this report. Thank you.

SENATOR GLOOR: Thank you, Senator McCoy. Members, you've heard the report from the Committee on Committees. Are there senators who wish to be heard? Seeing none, the motion before us is the adoption of the Committee on Committees report. Those in favor of the adoption vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk.

CLERK: 38 ayes, 1 nay, Mr. President, on the adoption of the Committee on Committees confirmation report.

SENATOR GLOOR: The report is adopted. We continue with the agenda as printed.

CLERK: Mr. President, the next motion is from Senator Lautenbaugh. Senator Lautenbaugh would move for the adoption of permanent rules for the One Hundred Third Legislature, Second Session, and any special sessions held during the 2014 calendar year. I do have amendments coming from the Rules Committee, Mr. President.

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Lautenbaugh, you're recognized to open on your amendment.

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. There were several amendments that were proposed. Four of them advanced for your consideration. We will do them one at a time. I believe all of them have been e-mailed to you. The first one amends Rule 3, Section 5. This was proposed by the Clerk. It simply removes archaic language. Careful observers of the Legislature may recall that I believe it was Senator Janssen was the Chair of the Intergovernmental Cooperation Committee,

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and his major accomplishment as Chair was to move to eliminate his own committee, which he did and we did. And yet there is still a reference in the rules to this committee. This proposed rule change would eliminate that reference to that committee, and I would urge your approval of this proposed amendment to the rules.

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Members, you've heard the opening on the amendment to the rules. Are there senators who wish to be recognized? Seeing none, Senator Lautenbaugh, you're recognized to close. Senator Lautenbaugh waives. Members, the motion before us is the adoption of the amendment to the rules, Rule 3, Section 5, special committees. Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk.

CLERK: 39 ayes, 0 nays, Mr. President, on adoption of proposed amendment 1.

SENATOR GLOOR: The amendment is adopted. Senator Lautenbaugh, you're recognized to open on your next amendment.

SENATOR LAUTENBAUGH: Thank you, Mr. President. The next amendment proposed and recommended by the committee would amend Rule 3, Section 11 to clarify that Chairs of the committees are authorized to allow electronic equipment within committees. This has the virtue of I guess recognizing the practice as it's developed. This was proposed by Senator Dubas. The rule currently reads that the...that electronic devices are generally prohibited in the committee rooms for legislative committees and does not acknowledge that committee Chairs are authorized to allow them. Committee Chairs have allowed them. This would acknowledge that committee Chairs do have the authority to do that very thing. It doesn't require committee Chairs to do it. It doesn't require committee Chairs not to do it. It would just provide discretion to the Chairs of the respective committees. With that said, I would urge your approval of this proposed change. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Members, you have heard the opening on the amendment to the permanent rules. There are senators wishing to be recognized. The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask the Chairperson of the Rules Committee a question if I may.

SENATOR GLOOR: Senator Lautenbaugh, would you yield?

SENATOR CHAMBERS: Senator Lautenbaugh, who brought this change or recommended this change?

SENATOR LAUTENBAUGH: Senator Dubas did.

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SENATOR CHAMBERS: Thank you. I just wanted to be sure that I heard correctly. I'd like to ask Senator Dubas a question or two.

SENATOR GLOOR: Senator Dubas, would you yield?

SENATOR DUBAS: Yes, I will.

SENATOR CHAMBERS: Senator Dubas, let me correct that. I'm going to try to be as precise as I can this session. I'd like to ask you one question, but it may have more than one part. May I ask and are you willing to answer why this was recommended?

SENATOR DUBAS: I brought this forward. I believe it's probably a practice that is happening in some committees, maybe not all, but I believe some committees it's already going on where either iPads or cell phones or whatever are being used. I know that there are more and more senators who are relying on their individual devices, whether it's for their research, notes, etcetera, etcetera. And so I just felt by giving the committee Chair the discretion to make the decision whether he or she believed it was all right to use those devices or not would kind of bring practice in line with rule.

SENATOR CHAMBERS: Senator Dubas, was this offered with the members of the committee in mind or the public or both?

SENATOR DUBAS: Probably both.

SENATOR CHAMBERS: So what types of these devices currently, other than these cell phones, are prohibited as far as the public is concerned, if you know?

SENATOR DUBAS: Well, I think the original rule states...let me get it in front of me.

SENATOR CHAMBERS: Sure.

SENATOR DUBAS: Any kind of mobile, portable, or wireless device. So it's basically saying there are...the Exec Board says there are no...any...no types of devices that are allowed in committees. And I'm just simply saying if the committee Chair feels comfortable with allowing those devices he or she may make that decision.

SENATOR CHAMBERS: And here's what I'd like to look at, and I'm glad you brought up the language in the original rule. "The use of any mobile," and I say mobyl (phonetically) "portable, or wireless communication device." The teeth, lips, and tongue working in sync could be considered a communication device. In other words, the method by which we speak could be considered a communication device. Is that true or false?

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SENATOR DUBAS: I would probably say that's true.

SENATOR CHAMBERS: Sometimes...thank you, Senator Dubas. Sometimes, rules are written broader than they need to be with the feeling that everybody will understand what is included and what is excluded. But that is not always the case. However, because there are certain things generally accepted by everybody, it would not be necessary in the minds of those who drafted the original rule to say this does not prohibit anyone from speaking or communicating by means of the voice or sign language or any other means, other than these high-tech electronic means. This amendment, and I'm going to have a few more things to say when my next time comes up, and it will be speaking more broadly than just this rule. But I call this type of provision the Loran Schmit principle. It doesn't help anybody; it doesn't hurt anything; it doesn't cost anything; it doesn't do anything. Therefore, it's probably all right. But since the Legislature is offering it, and this is my addition to it, you better watch those kind even more carefully. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Chambers. Members in the queue: Carlson, Lautenbaugh, Hadley, and Chambers. Senator Carlson, you're recognized.

SENATOR CARLSON: Thank you, Mr. President, members of the Legislature. I'd like to direct a question to Senator Lautenbaugh if he would yield.

SENATOR GLOOR: Senator Lautenbaugh, would you yield?

SENATOR LAUTENBAUGH: Yes, I will.

SENATOR CARLSON: And I'm asking this just to clarify. I think I know what the answer is, but with that change in the rule, it doesn't at all prevent the Chair of the committee for...to disallow electronic devices by the members of the committee during a hearing. Is that correct?

SENATOR LAUTENBAUGH: Well, Senator, let me say at the outset that I'm just glad this wasn't one of those questions about the Good Book that you're always asking me...

SENATOR CARLSON: Oh.

SENATOR LAUTENBAUGH: ...that I...that you have to give me the answer to ahead of time.

SENATOR CARLSON: That comes later.

SENATOR LAUTENBAUGH: It's good to have something to look forward to this session finally. But to answer your question directly, no, it does not remove discretion from the

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Chair. It just in my mind states that the Chair has discretion.

SENATOR CARLSON: Thank you. And one other question then. Because it would be possible in a committee of eight, the Chair makes a decision there will be no electronic devices by the committee during any hearing, and if the other seven don't agree with that, they don't have any recourse in the way this is written. It's still a rule enforced and made by the Chair. Is that true?

SENATOR LAUTENBAUGH: Well, I would have to, again, I think back in the back of the rules there's a provision for the removal of Chairs that disappoint the committee so...but I don't think that's been invoked in a while so I'd have to look that up.

SENATOR CARLSON: Well, I think it should be...I hope it's clear that the Chair does have the discretion of saying no electronic devices. I'm really staunch on that and so wouldn't want this rule change to kind of open the door, and I don't think it does.

SENATOR LAUTENBAUGH: I don't think so. I think you're correct. Barring some sort of extreme measure, and I was being semi-facetious there, but, yes, I think it's very clear the discretion rests with the committee Chair under this proposal either way--to allow or not allow electronic devices.

SENATOR CARLSON: Okay. Thank you, Senator Lautenbaugh. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Carlson and Senator Lautenbaugh. Senator Hadley, you're recognized.

SENATOR HADLEY: Mr. President, members of the body, I guess I don't want to sound like I'm preaching, but I'm in favor of the rule. But I think we have to be very cognizant of our citizens who are coming to testify. Many of them come a long ways. Quite often we limit testimony to a certain amount of time. And I would hate to give them the perception that we're not paying attention to them. So I would hope, members of the body, if you're going to use electronic instruments, that you use it wisely; that you don't use it the entire time that somebody is testifying; that you really use it for things that are important. And I know that there are people that keep their notes on it, look things up, and it really is a part of the committee process. But I even find myself every now and then, your mind wanders and you pick up your phone and look at it to see if you've had any text messages or such as that. So I just think we need to set a standard that we be sure that we send the message to our constituents who are coming down to testify before us that what they're saying is important, we want to pay attention to it, and we understand that that is why we're here is to listen to our constituents. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Hadley. Senator Chambers, you're

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recognized.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, not everything that is going to be done in a legislative assembly should be bound by written rules. That can be very restrictive. There are certain basic things which give guidance and structure to and framework within which we operate. But to reduce everything to a rule creates a situation where we either have to pretend that the rule is not there or a motion has to be made to suspend the rules. Under a common law system...I would like to ask Senator Lautenbaugh a question.

SENATOR GLOOR: Senator Lautenbaugh, would you yield?

SENATOR LAUTENBAUGH: Yes, I will.

SENATOR CHAMBERS: Senator Lautenbaugh, although I'm trained in the law, I'm not a lawyer because I don't belong to the Bar Association. Under a common law system, the law is not written as in a statutory system where you put everything in law books. Is that true or false?

SENATOR LAUTENBAUGH: That is true.

SENATOR CHAMBERS: Thank you. Members of the Legislature, how does that common law system evolve? Over a period of time certain issues come up repeatedly, repeatedly and they're dealt with in the same way more or less. And everybody who is dealing in that particular area comes to understand how these issues will be resolved. And when something like that happens over and over and over, when courts acknowledge that this is the way it's done, then those types of practices take on and have the force of law. So there will be certain practices in a legislative assembly which some people like and some people don't. But to try to address everything with a rule is a mistake. Often rules are changed and have been changed during the decades that I've been here to try to cripple me, to try to silence me, to try to restrict me. And not one of them has ever succeeded in its purpose. I've used it to ridicule, to excoriate, to lambaste, to taunt, to mock the 48 other senators and tell them they ought to be ashamed of themselves to have to change rules to stop one man and can't do it anyway. All that that succeeds in doing is forcing me to study their rules, master their rules, then operating within rules I don't even like, beat them at their own game. So I look at these changes to the rules that are brought to us, and I don't know that this one is necessary. There are prerogatives that Chairpersons have. If you take the language as it is, unless allowed by the committee Chairperson, then these types of devices may be disallowed by the Chairperson also. If it's generally understood by us, we are in the Legislature, the prerogatives of a Chairperson, we don't need to change the rule. The Chairperson sets up the parameters within which hearings will take place. They will tell people, chairpersons collectively, about these different types of devices. I'm glad that

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"Parson" spoke up about the use of these devices by committee members. The one word he did not use was discreetly. If you're going to use them, if you must use them, do it discreetly because...

SENATOR GLOOR: One minute.

SENATOR CHAMBERS: ...we are there during the hearings for the benefit of the public. And they should get the impression, whether we're listening or not, that we are listening. Some things that come before the Judiciary Committee I've heard so many times I just tune it all out. I know everything each person is going to say before it's said. Sometimes, though, a person will come up with something new and I'll write a note so that I can call attention to that item. Since my time is up, I got one more time to speak and I'll stop at this point. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Chambers. The Chair recognizes Senator Schilz.

SENATOR SCHILZ: Thank you, Mr. President, members of the body. Welcome back. Nice bright, sunshiny day to get started on our debate. You know, as I look at this and I think that this is instructive as well as something that we really need to think about. I think it should be up to the Chairs as to whether or not electronic devices are allowed in. We already allow quite a few as it is. We need to understand, too, that this last year we've equipped two of the hearing rooms for distance testimony, which could require over time that we need more electronic devices in there. What would be nice is get to the point where somebody could have something that they're testifying on and they have a sheet and they want to introduce it to the committee to be able to run that through a scanner or have it come up on your computer or on your iPad or your tablet, whatever you have. To be able to see that real-time would be very beneficial. And I think it behooves this Legislature to understand that times do change and we should be looking for those changes for the positive influences it can have on us, the people of the state, and their ability to access their government. So I commend the Rules Committee, Senator Dubas for introducing this because I think it should be up to those individual committees as to how this works and what it can be used for. But I do also agree with Senator Chambers that if you are going to use those devices that you use them as discreetly as possible so as to not disrupt the important proceedings that are going on in those committee hearings. Thank you very much.

SENATOR GLOOR: Thank you, Senator Schilz. Senator Chambers, you're recognized and this is your third time.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask the Rules Committee Chairman a question or two if he will respond.

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SENATOR GLOOR: Senator Lautenbaugh, will you yield?

SENATOR LAUTENBAUGH: Yes, I will.

SENATOR CHAMBERS: Senator Lautenbaugh, I'm addressing these questions to you because I don't know who authored the original language of the rule as it exists right now. But those who are allowed to use these devices now are licensed medical persons on duty. What is a licensed medical person who would fall within this definition, if you have any idea?

SENATOR LAUTENBAUGH: You know, I'm kind of in the same boat as you. I don't know who authored the original language, and I think that is subject to interpretation as to what constitutes a licensed medical person, much less what "on duty" means for a licensed medical person.

SENATOR CHAMBERS: Thank you. Members of the Legislature, I'm sure when this original language was adopted it made a lot of sense. But I read the language. If a person in the audience has read the rule and has a cell phone and it starts ringing and the Chairperson says, we do not allow those devices, and the person says, I'm a licensed medical person, is that person allowed to continue receiving calls on that device? If it doesn't vibrate, if it makes noise, if it disturbs others in the room who are nearby, if it's as big as one of these things that you have on your desk here, the Chairperson cannot under the rule tell the person that must be taken outside the room. If it's as big as a large television screen, if the person is licensed and medical and on duty, it doesn't say that the device has to be used in connection with that person's status as being licensed or on duty. So is it a good rule? If everybody understands and accepts in the first place; if everybody would say, we're going to use common sense and everybody has the same definition of common sense, it makes sense. Sometimes when you bring these rules up to change them, you raise questions. So what I think ought to be done if you adopt this provision is to strike "or used by licensed medical persons on duty." It makes no sense. But that's not unusual in this legislative body. I try, I work assiduously to bring sense out of nonsense on this body and I fail often. Right, Senator Kintner? Speak no name, bear no blame. So what I intend to do is to let you all adopt this change in the rule, which I think is unnecessary. If the rules are for us, we understand. If the rules are to give notice to the public, then you might have something different that's at play, but then you've got to change a lot of these rules, which are esoteric as far as the public, but it's plain as the hands at the ends of our wrists to us. So since you all bring this exercise up every year, and when I'm here I usually, if I remember, vote against adoption of the rules because there are provisions I don't like. And it also puts me in a position when my colleagues who voted for the rules...

SENATOR GLOOR: One minute.

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SENATOR CHAMBERS: ...cannot get done what they want within the rules and the move to suspend the rules. I tell them, um-hum, I voted against the rules, but I always operate within the rules. I operate within the rules you all unwisely adopted that will cripple you. And you know why they cripple my colleagues but not me? I can think and they can't. I can read and understand English when it's written, but my colleagues cannot or refuse or ignore it. But since we're starting out, a tone needs to be set; and I'm kind of setting the tone that I will be following this session. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Chambers. Senator Schumacher, you're recognized.

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. Senator Chambers never ceases to amaze me because he always finds far more meaning in these things than perhaps is intended in the naked language. I'd like to address momentarily the definition of the word "use." If the Chair says you can use your iPad or you can use your computer or cell phone with texting gimmicks on it, can you use it for all of the applications or is the Chair empowered by this to say you can only use it for an application of researching the Internet to find data on the fly with which to question a witness who has testified or who is testifying? I think that's an extremely pertinent distinction that we should look at because there are some uses, if we're authorizing the use of the device, there are some uses that clearly I think would be a misuse. They certainly shouldn't be allowed to watch a movie on your iPad during a hearing. On the other hand, the Chair should be able to tell you, look, if you have witnesses testifying, you can use your iPad to investigate their testimony for proper cross-examination. I think it's really, really important to be able to do that because from the observations I've been able to make since I've been here and noted before I got here, sometimes these committee hearings are a loss of very good access to experts, to testifiers if we let them go from the room without questioning them. And sometimes to intelligently question them, we need data on the fly. So I think that we should express our legislative history here and our history that "use" may mean you can use a device, but only for these purposes. I would yield any additional time I might have to Senator Chambers.

SENATOR GLOOR: Two minutes and 45 seconds, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. And thank you, Senator Schumacher. When it's real cold outside, I have various nicknames attached to me or various adjectives used to describe me. I like what Senator Schumacher said about my never ceasing to amaze him by finding things that are here. Senator Schumacher, on some of the types of bills that we have, has an uncanny ability to simplify very complicated principles, ideas so that those of us not familiar with that area can grasp them. Then once we can grasp that underlying principle, we can review the language that is being presented to us and make an informed decision as to whether we agree with it or not, instead of just in our mind saying, so and so has

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brought this and I will go along because I have confidence in that person's ability; or, it makes no sense to me but it's a bill that I have no particular concern about so I'll just sit out the vote. And maybe your vote will be crucial. Maybe if you understood you would have voted for it. So there are different talents and abilities that members bring to this body and it's why I encourage people to say what is on their mind. Even if that mind is empty most of the time, if a thought happens to stray through and get stuck there long enough for you to grasp it and hold it until you're recognized by the Chair,...

SENATOR GLOOR: One minute.

SENATOR CHAMBERS: ...speak it or as much of it as you can remember. So if we...how are you going to craft a rule dealing with what we're dealing with unless you just say, with the language stricken that I'm going to offer an amendment to strike, that the Chairperson has the discretion to whatever these things are that you all in drafting a rule want to say? Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Schumacher and Senator Chambers. Senator Brasch, you're recognized.

SENATOR BRASCH: Thank you, Mr. Speaker, and good morning, colleagues. I am on the Rules Committee. I serve as Vice Chair, and I did vote in favor of this rule change in the sense that I believe the original licensed medical pertained to a physician or doctor who may need to answer an emergency call of some sort. But by the use of my electronic device, I was able to research the extent of what a medical licensed person could be. I'm also thinking that this is looking into the future. Senator Schilz had mentioned the fact that there are many opportunities to get much information from electronic devices. In the education realm, many schools, universities are now using boards that are called SMART Boards. I can envision in the future, hopefully near future, where this board is actually able to pull up pictures of red cedar pines and Google maps and geography readings of situations when we have a constituent that comes to us about a specific problem where we can use an electronic device to better inform us. These devices should not be disruptive. They should not be disrespectful to our constituents as well. They should not be used for recreation, but for information and with good judgment. The Chairman of each committee as it stands has the power and ability to ask a sergeant at arms to remove a person that is being disruptive from the committee hearing as well. So it need not be a device that perhaps is disrupting the session, but it could be conversations and other things. So I do support this rule. And I believe that as a part of a nation that is more and more electronic that we need to look at the tools on how they can help us and as good colleagues understand that these hearings are important and we give full respect to those that testify before us. Thank you, Mr. Speaker. Thank you, colleagues.

SENATOR GLOOR: Thank you, Senator Brasch. Mr. Clerk for an amendment.

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CLERK: Senator Chambers would move to amend the proposed rule change by striking the language "or used by licensed medical persons on duty."

SENATOR GLOOR: Senator Chambers, you're recognized to open on your amendment to the amendment.

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I will on occasion bring a proposal that people will give their mental assent to when I first present it. But in the process of presenting it, I alienate people to such an extent that in reacting to me and my method of presenting it they will vote against something that they thought prior to my presentation ought to be accepted. Understanding is the greatest thing. Therefore, with all thy understanding...I thought the "Parson" might be listening and he'd correct me, but actually wisdom is the greatest thing. But with all thy getting, get an understanding. And I think they put that backwards. That comes from what Senator Lautenbaugh referred to as "the Good Book." He and the "Parson" are thinking of the "Holly Bible" when they say that. But when I think of the Good Book, I'm thinking of the autobiography of Frederick Douglass. Not too far behind that would be the meditations of Marcus Aurelius. And just for light reading, the Track of the Cat, which nobody in here would read, I'm sure, and if they started, they wouldn't complete it. But even there a term that most people accept as meaning one thing does not mean the same thing to everybody. The pronunciation of words are different based on what your orientation or approach might be. I'm probably the only one who would refer to that book as the "Holly Bible," but that's what I call it. And I think I have that right based on the United States Constitution, the Declaration of Independence, and especially the first ten amendments to the U.S. Constitution, also in the Articles of Confederation the right to refer to that book as the "Holly Bible" will be found. Not only do I find the words that I'm attempting to strike from this amendment, this rule inappropriate, I find it very inappropriate to have people stand up in here and say what they call the Pledge of Allegiance. Nobody should have to pledge anything to a flag, to any symbol. Nobody should have to participate in a civil religion, especially when the words on their face are patently false and insulting. This is not the land of the free, maybe for those of you all who are of the pale complexion it's the land of the free. Look at my complexion. It is not a land of freedom for me and mine. Land of the free my foot; the home of the brave. We call it the land of the tree and the home of the slave. With all of the so-called civil rights laws, with all of the presidential proclamations, with all of the judicial decisions which purportedly are designed to eradicate racial discrimination, racial discrimination is still here in full flower. And no white person is going to tell me that there's no discrimination. White people can't tell me anything about that issue. How is some person who is a part of the problem going to tell me, who am victimized by the problem, how I ought to react, how I ought to pledge allegiance to a flag when everyplace I go and see it I expect to find racism? When I see somebody with an American flag, I expect racism. When I see the term conservative, that means racist. And I base it on knowledge and many years of

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experience living in America. When Francis Scott Key wrote that song "Star Spangled Banner," "yet wave o'er the land of the free," there was slavery then. White Americans were fighting for the right to enslave black people, to sell us like these electronic devices are sold, to own us as these devices are sold, to use or misuse us as these devices may be used or misused, to rape our women and our girls, to work us like beasts in the field; and there were rules against treating animals the way black people were allowed to be treated. You could not torture an animal to death. You know one of the favorite things they did to show an example to recalcitrant black people such as I probably would have been? They would take a barrel and they would drive long nails from the outside inside, and they'd put the black man in that barrel and roll it down a hill. And if you don't believe it and don't know it, it's because you don't know your history. You don't know your history. My people lived it, and we're very aware of it now. And every time you hypocrites stand on this floor and talk about the land of the free and the home of the brave, you're lucky that a person is not able to pronounce a curse and it be carried out. And you know what the language would be? That which is found in the "Holly Bible": May your right arm lose her cunning and may your tongue cleave to the roof of your mouth. That means you can't work and you cannot speak. That's in the "Bible." So when you white people do these things, understand not everybody is white and not everybody feels the way you feel. And when because you've got the numbers you can bring that trash in here doesn't mean that I'm going to go along with it and not speak against it. I ought to come in here and sit down when you do it, but I will not show it that much consideration. Every time I'm not here when you do it, I'm showing my utter contempt for it, my moral outrage, my intellectual hatred for that worthless ceremony. You don't even practice it when you're passing legislation in here, and I sit here...stand here actually, watching, listening, learning, analyzing, evaluating, judging. When those white cops took Rosa Parks off that bus, they were wearing American flag emblems on their shoulders. And when they took her for booking in the police station, there was a big American flag. And when people who committed vile crimes such as hers went into court, on the wall was "In God we trust." What God is that? You don't think. You're so arrogant. You are so full of yourself that you are the only ones who exist, but I'm going to remind you that you're not the only ones and that there are people of my complexion who will say to you, not whisper it...

SENATOR GLOOR: One minute.

SENATOR CHAMBERS: ...because we're afraid we'll lose a job or our children may be taken from us by some white people. There's a lot missing from the education system in this country. Most of you all have never heard of Frederick Douglass. And if you did, you probably would disagree with practically everything he said because he fought assiduously against slavery. And he received a much more favorable hearing in Europe, especially England and Ireland. But in this country, he would have been clanking around in chains, not of the kind that Jacob Marley wore in Charles Dickens' A Christmas Carol.

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SENATOR GLOOR: Time, Senator. Members, you've heard the opening on the amendment to the committee amendments. We now move to floor debate. Senator Larson, you are recognized.

SENATOR LARSON: Thank you, Mr. Speaker. As a matter of fact, Senator Chambers, I have heard of Frederick Douglass, and during my time in D.C. I was able to visit his house. It was a great experience, and I actually read his autobiography as well. You're right. He did receive a much more...better reception in England and Ireland, and he fought tirelessly against slavery. And I noticed during your speech you talked about how you equate the word "conservative" as racist, and I do somewhat take offense to that because I do consider myself a conservative. And I do not believe in any manner of the word that I am a racist. So I just thought I'd stand up and let you know that. And if you'd like the rest of my time, I'd be happy to give it to you. But I have read Frederick Douglass' autobiography. I have been to his house in D.C. I don't know...have you been to his...would Senator Chambers yield?

SENATOR GLOOR: Senator Chambers, would you yield to a question?

SENATOR CHAMBERS: Yes.

SENATOR LARSON: Have you been to Frederick Douglass' house in D.C.?

SENATOR CHAMBERS: Say it again.

SENATOR LARSON: Have you been to Frederick Douglass' house?

SENATOR CHAMBERS: No.

SENATOR LARSON: I highly recommend it. It's a beautiful house on top of the hill in southeast D.C. looking down onto the mall. And if you ever get a chance in the next few years, I'd highly recommend you get a chance to see his house. It was an inspiration to see. And I'll yield to you the rest of my time.

SENATOR CHAMBERS: Thank you. Remain on your feet if you will, Senator Larson. Will you pay my way so that I can go see it?

SENATOR LARSON: (Laugh) Well, you know, if you offer the constitutional amendment to give senators a raise and that passes, I'll definitely help you out.

SENATOR CHAMBERS: Thank you, Senator Larson.

SENATOR GLOOR: Senator Chambers, you have three minutes remaining and you are next in the queue. I'll tell you when you're on your time.

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SENATOR CHAMBERS: Thank you, Mr. President and members of the Legislature. There are books that have been written by white people about the racism in this country, about the misportrayal of American history, especially during the so-called colonial and then revolutionary period, the role that black people played and especially when it came to fighting for this country, which had them enslaved. They operated ships that went on raids against the Confederacy. They served as spies. One was a female, and people think of her as being very large because she cast such a large historical shadow. Her name was Harriet Tubman, and she was under five feet tall, under five feet tall. She operated what people call the underground railroad. It was a means by which slaves were spirited from the South through the North up into Canada. She...and it was true. She said, my train never went off the track and I never lost a passenger. But there was one time that she had to put her foot down. This black man wanted to be free. But as they proceeded and he heard dogs barking and he became aware of the actual hazard that was being faced by anybody who would escape, he told her, Harriet, I can't go on. Harriet Tubman reached down inside of her gown...

SENATOR GLOOR: One minute.

SENATOR CHAMBERS: ...and she pulled out a pistol almost as long as she was tall, and she put it against his nose. She said, you're going to be free or you're going to be dead. And he said, Harriet, I think I'll stay on the train. And he was free. It's not an easy thing to fight for your freedom when the odds are overwhelming. It's not easy when somebody says, see the light at the end of the tunnel, just run through the tunnel, and you have no idea what's in the tunnel. It takes more than a notion. So just going through the effort of trying to be free to live as a human being was indeed heroic. And since the Chair said that I'm next up, I won't sit down. I will just continue while I'm on that thought. From time to time, I'm going to bring you all little I say vignettes. Some people say vinyettes (phonetically) and pronounce words different ways. But little bits and pieces from history that you may not be familiar with. But one of them for sure is you ought to stop having that flag salute in here and saying that some time will be set aside in every classroom every day to salute the flag, but you don't set time aside to teach them why this country was always divided, is divided now. And I bet Senator Scheer, who loves that, doesn't know the places in the constitution which protect slavery, refer to slavery. That might be why some of the people don't want the constitution taught to children, but they probably think it's just too hard to understand. The document that you all worship, I read it and it protects the enslavement, the sale of my ancestors. The only thing that this constitution stated, Senator Scheer, could not be repealed for 20 years, was the provision that protected the slave trade. You could have changed the presidency to a monarchy and that would not violate the constitution if you could amend the constitution to do that. You could amend the constitution to replace Congress with a parliament. You could have changed the constitution to determine how states are formed, how old a person must be to hold an office. Anything in the constitution could be changed except

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when it came to the trading of my ancestors. That could not be amended out of the constitution for 20 years. How many of you all knew that? You love the constitution. You think I love it. And then you're going to stand up here and talk about the land of the free and the home of the brave. Hypocrites. Fools. Ignoramuses. Tell me that I'm wrong. Show me that I'm wrong. And if I'm right, accept what I'm saying. And your song, "The Star Spangled Banner," you know why it's so difficult to sing? Because it's from an old British drinking song, "To Anacreon in Heaven." Your national anthem is an old English drinking song. How many of you all were taught that in school? You don't know anything about these things that you worship and that you force on other people. Make Jewish children worship Adolf Eichmann, the swastika, Auschwitz, Treblinka, but you won't do that to those who are somewhat like you. There is I'm told, and I have to take it as being true, that there was a broken chain on the ankle of the Statue of Liberty, and it was put there by those who gave that statute to you all. You all didn't build that statue. It was given to you to symbolize the slavery in this country. And Lafayette, who did yeoman work during the Revolutionary War, said, had I known that they would have slavery I would not have raised my sword in their cause. Thomas Jefferson is given credit for writing the Declaration of Independence.

SENATOR GLOOR: One minute.

SENATOR CHAMBERS: And he fathered babies on a 14-year-old black slave child and that used to be denied. But now the two families, the Hemingses and the Jeffersons, get together because they could not escape history. What would happen to me if I fathered children on a 14-year-old white girl? And I should worship Thomas Jefferson, and this child was owned. That's the term they used. Think about what your people have done and the attitudes you have now. You probably wish that I lived in those days and had gotten killed. Then you wouldn't have to listen to me today, would you? Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Chambers. Senators wishing to be heard are: Brasch, Murante, Kintner, and Chambers. Senator Brasch, you're recognized.

SENATOR BRASCH: Thank you, Mr. Speaker. Thank you again, colleagues. Senator Chambers, you have been very, very clear and you have used the word hatred multiple times. I don't believe hatred is the solution to anything. It has been the problem throughout history. And I don't believe there's a member of this body in here this morning sitting here is here because of hatred. It wasn't that long ago that you talked about a special relationship that you had respectfully for one of your colleagues that we share that respect. And when you talk about America, it is very clear, Senator Chambers, that there is no way that people can be or should be exonerated for those actions of rape and murder. But it is my belief that we are a changing nation, that many people have come here, multiple generations with love in their hearts who do believe in the American dream. And it is not God that creates evil. Everything in the Holy Bible is

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to make us better people. And the more people that step forward to follow the Bible we will see less and less. You know, we are a world with a lot of turmoil. We all are moving on different compasses in different directions. And many of those are not the right directions to bring people together. And as I said before, I do respect your history, the achievements you've had, and what you've contributed to this Legislature, to the people you serve, and of the great state. And it is not about hatred, but it is on making better people and better things. The flag is a symbol. This Legislature, this Chamber is a symbol. This Capitol Building is a symbol. We need to move forward in time, not backwards. It is backwards to dwell in hate, and I believe it has no good result for anyone in the past, in the present, or in the future. It is a part of the tradition of our country, and we are working every day. We try to work to make a better country, a better community, and better hearts. And even though you do deny it, Senator Chambers, I have mentioned on this floor before, you have a heart. I've seen it with you and children and it's there. We've had conversations off the floor. It's there. And your stern words, if it is to make us better, it's for a greater good. It is not for the cause of evil. Senator Chambers, as a country if we can make things right, show us how; but don't show us by the way of hate. Thank you, Senators and...

SENATOR GLOOR: Thank you, Senator Brasch. Senator Kintner, you are recognized.

SENATOR KINTNER: Well, thank you, Mr. President. I think this is a very instructional time. I wish there were more students watching this. You know, we talked about our Founding Father. I talk about our Founding Fathers quite a bit. I wish we would pay more attention to them and a little less attention to some of the progressives that come along since then. And, you know, you ask a kid today that was educated in our public system, why did we rebel? Why did we declare independence from Britain? And you always hear taxation without representation. Well, that answer would be correct, but there were actually 27 different grievances that we listed against the King of England and against Great Britain. And taxation without representation was listed one time; abuse of military powers, seven times; abuse of a judicial power, four times; stirring up insurrection, two times. Well, something that I thought that really I thought addressed a little of what Senator Chambers was talking about was something by Thomas Jefferson. And one of the reasons that we declared that we wanted to leave Great Britain, rebel from the king was slavery. That's right. Slavery was one of the reasons that our Founding Fathers wanted to cut ties with the crown. And this is what Thomas Jefferson said: King George III has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant land and people who have never offended him, captivating and carrying them into slavery in another hemisphere or to incur miserable death in the transition. Determined to keep open a market where men should be bought and sold. He has prostituted his negative for suppressing every legislative attempt to prohibit or restrain this terrible commerce. That was a direct quote from Thomas Jefferson. So our Founding Fathers clearly, most of them, not all of them, lived out their Christian beliefs. And one of the key reasons why we declared our

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independence from Great Britain was slavery. And I will yield the rest of my time to Senator Chambers.

SENATOR GLOOR: Two minutes 20 seconds, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Kintner, but the 20 seconds will not leave me much time. I appreciate the thought, though.

SENATOR GLOOR: Two minutes twenty seconds, Senator Chambers.

SENATOR CHAMBERS: Oh. Oh, 2 minutes. Then, Senator Kintner, stand on your feet, if you will.

SENATOR GLOOR: Senator Kintner, would you yield?

SENATOR KINTNER: I certainly will.

SENATOR CHAMBERS: Senator Kintner, I've read a tremendous amount about Thomas Jefferson. In fact, I have volumes of his works and a very thick biography on him. Those were words that were supposed to go into the Declaration of Independence. And you know why they were kept out of the Declaration of Independence? Because all those slaveholders who were there, including Thomas Jefferson, said, wait a minute, that applies to us in America. That's exactly what we do. We're the ones who go thousands of miles and get these unoffending people and bring them across the ocean into another hemisphere, many of them dying in the transit. So they excluded that from the Declaration of Independence. Were you aware of that, Senator Kintner?

SENATOR KINTNER: Yes, I was.

SENATOR CHAMBERS: Senator Kintner, why did not, since we have youngsters here and maybe some watching, why did you not include that as the context in which a statement like that was made by Jefferson but could not be put into the Declaration of Independence?

SENATOR KINTNER: Well, it wasn't put in the Declaration of Independence because they wouldn't have had the southern votes to...they wouldn't have been united. So they put that out and they would live to fight another day, get rid of slavery at a later date.

SENATOR CHAMBERS: Then why did they put in the Constitution the protection of the slave trade since they thought it was such an evil? And it could not be amended. The Constitution could not be amended to prohibit the slave trade for 20 years. Why was that put in the Constitution if that was the reason they broke away from England?

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SENATOR KINTNER: Well, in 1880...or 1787 it was four months going on to try to pass this thing. They were at risk of not passing anything, of failing in this opportunity to have a society that is founded on liberty and Christian principles. So in order to get it passed, they dropped that, just like they did in the Declaration.

SENATOR GLOOR: Time.

SENATOR CHAMBERS: So it was liberty...

SENATOR GLOOR: Time, Senators.

SENATOR CHAMBERS: ...for white people though. Excuse...

SENATOR GLOOR: Time, Senators.

SENATOR CHAMBERS: Oh, thank you.

SENATOR GLOOR: But, Senator Chambers, you are next in the queue, so you can continue.

SENATOR CHAMBERS: And since I'm on my own time now, Senator Kintner, that's all I will ask you.

SENATOR KINTNER: Okay.

SENATOR CHAMBERS: Members of the Legislature, that Constitution has been touched on by me, has been touched on by Senator Kintner. And not "Parson" Carlson but "Sister" Brasch is the one who had a few things to say about the "Holly Bible." Now, I've read the "Holly Bible" several times from cover to cover, as I've read the Constitution enumerable times. Derisively, derisively, as some people pronounce it, the "Bible" says, can the leopard change his spots or the Ethiopian his skin? That's in the "Bible." Do you know why black people were cursed to be slaves, hewers of wood and drawers of water? Because of the "Bible." When Noah got drunk, got drunk, two of his sons took an animal skin and backed in and covered up his nakedness, because one of the sons had seen it and mentioned it. So guess what Noah did, a drunk man. He came out of his drunken stupor and when he found out what happened, he said, blessed be the descendants of Shem and Japheth--the white, brand A white people and brand B white people; but cursed be the descendants of Ham--black people such as myself would be slaves, hewers of wood and drawers of water. And based on that, the Christians said God created slavery. And the "Bible" gives the injunction, slaves, obey your master for such is pleasing in the sight of God. And I'm going to say that I'll worship this "Holly Bible" and anything it talks about? Senator, I'll call her "Sister" Brasch mentioned that good comes from God. So does evil. God created evil. And if she had

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read the "Bible" she would have seen several references where God sent an evil spirit on King Saul, "an evil spirit from God," is a direct quote. Something can't give what it doesn't have. Anything that exists cannot have created itself. If evil exists, God created it. So what did King Saul do when the evil spirit from God descended on him? He said, send me a skilled musician, and that skilled musician was a little fellow named David. Now I don't know if David could play the harp like Carlos Santana can play the guitar or Yo-Yo Ma playing the cello. But whatever he played, it would cause the evil spirit to lift from Saul and the work that God had done in sending the evil spirit was defeated by a young musician. So when you all talk these things, read the whole thing. The "Bible" even said eat the whole roll, eat it all. And his mouth, this guy who did it, was sweet as honey; in his belly it was as bitter as wormwood. But anyway, I'm going to now speak to the subject at hand. I'm offering an amendment to remove some language from a rule, and all of that, that I was saying, goes back to this very thing.

SENATOR GLOOR: One minute.

SENATOR CHAMBERS: The words I would remove from Rule 3, Section 11 are the following: or used by licensed medical persons on duty, comma. Then the rule would simply say, "The use of any mobile, portable, or wireless communication device, other than those authorized by the Legislative Council, is prohibited in legislative hearing rooms during a meeting of a legislative committee." Then you can add this language, "unless allowed by the committee chairperson." But if in the beginning sentence you say, "authorized by the Legislative Council," then why doesn't the Exec Board simply lay out which kinds of things are allowed and you don't have a rule that "hidebinds" you? The Legislative Council can act very quickly. They can call a meeting if there's a need to do something. They don't have to wait until the Legislature is in session.

SENATOR GLOOR: Time, Senator.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR GLOOR: Senator Chambers, there are no senators wishing to be heard. You are recognized...Senator Carlson, you are recognized.

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I'd like to address Senator Chambers, if he would yield.

SENATOR GLOOR: Senator Chambers, would you yield?

SENATOR CHAMBERS: Verily, verily I say unto thee, yea, I shall yield.

SENATOR CARLSON: Senator Chambers, do you remember a few years ago you called me to the microphone and you asked if I would address you, and you asked me a

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couple of questions on just the very subject you just finished talking about? Do you remember that?

SENATOR CHAMBERS: That probably falls into the Teflon category of things. You'd have to be a little more specific, because we have had exchanges and I don't know specifically which one you're referring to.

SENATOR CARLSON: Well, you have such an incredible mind, I figured that you would well remember that time that you brought me to the microphone and the question you asked me was, is God the author of evil? Do you remember that?

SENATOR CHAMBERS: Now I do. Yes. Yes.

SENATOR CARLSON: Do you remember what I said?

SENATOR CHAMBERS: Well, the question was more significant than the answer, so you probably said God is not the author of evil.

SENATOR CARLSON: I said that he allowed evil. And then you asked me, well, what about the evil spirit of God? And it wasn't by chance. Normally, I would have no idea what you were talking about, but our group that studies the Good Book weekly had, two days prior to that, just covered that and about King Saul. That was not a coincidence, that was a plan. Otherwise, I would have had nothing to say. But I told you that that had to do when the evil spirit tormented Saul, and so he called on David to play the harp because the playing of the harp would send the evil spirit away. And that's what happened. Do you remember what you said to that?

SENATOR CHAMBERS: I really don't.

SENATOR CARLSON: You said that was because he played the harp so badly the evil spirit couldn't stand it.

SENATOR CHAMBERS: (Laugh)

SENATOR CARLSON: And I don't...

SENATOR CHAMBERS: That is a very clever answer. I wish I had said that.

SENATOR CARLSON: Well, this won't go on very long, Senator Chambers, because you know that in the years that we've had opportunity to kind of spar with one another, you've enjoyed it and I've enjoyed it, and we'll continue to do that. But I did want to remind you of that conversation that had already taken place. Thank you, Mr. President.

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SENATOR GLOOR: Thank you, Senator Carlson and Senator Chambers. The Chair recognizes Senator Lautenbaugh.

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I was out of the Chamber for about 15 or 20 minutes. I hope I didn't miss anything. I do see the amendment here and it appears the proposed amendment to the amendment would strike the language: or used by a licensed medical person on duty. And I've been told, as I did not know, I was told that was meant to refer to the doctor of the day. Again, that seems, if we're going to allow discretion in the Chairs, I think with a rule of reason in place that language is probably unnecessary as well. So this amendment probably is not offensive to the purpose of Senator Dubas in introducing the underlying amendment to the rules, if you will. I don't want to speak for Senator Dubas. But I could probably go either way on it, I guess, as far as the proposed amendment removing the part about licensed medical persons. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Are there other senators wishing to be heard? Seeing none, Senator Chambers, you're recognized to close on your amendment to the committee amendment.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I don't think this language adds anything to the direction this rule is going. And since I can't think of anything else to add to that, I'm going to look at the rule itself: "The use of any mobile, portable, or wireless communication device, other than those authorized by the Legislative Council." What more do we need in the rule? The Constitution is the basic law on which acts of Congress are supposed to be bottomed. The Rule Book will tell us that the Legislative Council can determine which devices will be authorized. The Legislative Council does not have to seek a rule change to authorize any of these or other types of devices, should some arise or maybe one that nobody has envisioned. So why do we need anything other than what would be in that first sentence or first part of it? The use of these devices, other than those authorized by the Legislative Council, would be prohibited. If the Legislative Council authorizes the use of devices, what else is needed in the rule? But if you like your rules to be cumbersome and if you like extra verbiage, you won't really hurt anything by adopting Senator Dubas' proposed amendment. But I think for sure the one that I'm offering ought to be adopted and we would eliminate that surplusage about licensed medical whatever it is while on duty. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Chambers. Members, the question before us is, shall the amendment to the committee amendment to the permanent rules be adopted? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk.

CLERK: 38 ayes, 0 nays, Mr. President, on the amendment to the amendment.

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SENATOR GLOOR: The amendment is adopted.

CLERK: I have nothing further pending to this proposed change, Mr. President.

SENATOR GLOOR: Seeing no senators wishing to speak, Senator Lautenbaugh, you're recognized to close on the second amendment to the committee rules, permanent rules.

SENATOR LAUTENBAUGH: Thank you, Mr. President. I would urge the adoption of this amendment. I do think it serves a purpose. I do think it clarifies our current practice. I thank Senator Dubas for bringing it and I would urge a green vote on it. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Members, the question is, shall the committee amendment to permanent rules be adopted? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk.

CLERK: 42 ayes, 0 nays, Mr. President, on adoption of the proposed amendment 2.

SENATOR GLOOR: The amendment is adopted.

CLERK: Mr. President, the Rules Committee would report with respect to proposed change to Rule 3, Section 20.

SENATOR GLOOR: Senator Lautenbaugh, as Chair of the committee, you're recognized to open on the amendment.

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. This amendment clears up, I think, something we debated on the floor last year. Our rule previously stated that you could not bring an amendment that was substantially similar to a bill within ten days of its public hearing...or within ten days after its public hearing, but it did not say what about before, if memory serves. This would clarify that you cannot bring the bill prior to the public hearing...or an amendment that is substantially similar to a bill prior to the public hearing or ten days after the public hearing. Again, "substantially similar" is subject to some interpretation, as we had that discussion last session as well. But I think this is a change that clarifies the Chair's ruling from last year. And I would urge your adoption of this as well. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Lautenbaugh. We now move to floor discussion. Senator Chambers, you are recognized.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, just one matter for clarification. I remember when this provision was being debated because I was down in my office listening. I wasn't going to participate. And "substantially similar"

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was the term mentioned, and I was about ready to run up the stairs. Then I read the rule and it says "substantially the same." And "substantially the same" would be different from "substantially similar." "Substantially the same" refers to the rule itself. "Substantially similar" would be something other than the rule...the bill itself but something like the bill. So it would be two steps removed. You cannot bring an amendment "substantially similar." That's not saying "substantially the same as." And maybe the words don't have that meaning when others analyze it, but the actual language of the rule is "substantially the same." I would like to ask the Chairperson of the Rules Committee a question.

SENATOR GLOOR: Senator Lautenbaugh, would you yield?

SENATOR LAUTENBAUGH: Yes, I would.

SENATOR CHAMBERS: Now, Senator Lautenbaugh, when we talk about this, in the second line it says, "a pending bill," and if the amendment is offered prior to the public hearing on that bill or after the public hearing. So this covers everything. Once a bill is introduced, is that when it is considered pending?

SENATOR LAUTENBAUGH: I would argue yes. And I would...I hate to take your time and I'll give you some back if you'd like, but I want to make clear, I had to pull out the rule as written, because it's not clear from this proposed change that you have in front of you. The current language says, "if offered within ten calendar days of the committee hearing." This language would say, "prior to the public hearing or ten days after the public hearing." So I would say this expands it on the front end. And I would argue that "pending" means once the bill is filed, yes.

SENATOR CHAMBERS: Okay. And I just want that as a matter of record. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Chambers. Senator Schumacher, you are recognized.

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. As you begin to read some of this language closely, I'm wondering if the amendment--and I voted for this amendment in the Rules Committee--doesn't spin off a problem. And maybe we should talk and think about it. As I read the proposed amendment, if one wanted to preempt some particular idea from being introduced as an amendment, all one now would have to do is introduce a bill of the same nature and let it languish in committee. And therefore, you preempt, from being heard or discussed on the floor, that particular idea or notion. And, Senator Lautenbaugh, would you yield to a question?

SENATOR GLOOR: Senator Lautenbaugh, would you yield?

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SENATOR LAUTENBAUGH: Yes, I will.

SENATOR SCHUMACHER: Senator Lautenbaugh, do you see any evil coming out of that, what could be very clever use of this particular provision, as amended, where you would file a preemptive bill to stymie discussion or introduction of an issue?

SENATOR LAUTENBAUGH: Well, now that you've given the game away to everybody else in the room, yes. I mean (laughter) I guess that is a potential possibility that I had not considered. Certainly, "substantially the same" would have to be taken into account and whether or not it's substantially the same or not. Of course, this could be one of those occasions where we have the discussion about the fact that there is a provision where you can pull bills from committees. And it exists for a reason and this would be the very reason such a provision would exist. And if we didn't treat it like a black art that we're not ever supposed to mention, and actually gave life to it from time to time, then that evil would not be very effective, would it?

SENATOR SCHUMACHER: I don't know about black arts. I'm not very familiar with those. But thank you, Senator Lautenbaugh, for that response. But you up the ante to 30 votes just by that preemptive strike. I wonder what language we could use here in order to take that problem away from ourselves. I understand the intent of this, but I also understand that we probably have just created--and maybe I just let the cat out of the bag--about a maneuver that we might not like down the road. Senator Chambers, do you have any thoughts on this? Would you yield to a question, first?

SENATOR GLOOR: Senator Chambers, would you yield?

SENATOR CHAMBERS: Yes, I will.

SENATOR SCHUMACHER: Senator Chambers, what's your...do you see any evils in that...not black art but in that (laugh), in that scenario?

SENATOR CHAMBERS: Well, Senator, here's what could happen. If a bill is pending, it doesn't say pending before a committee. The bill could have been advanced. We could have a bill out here, as now, and a person could offer an amendment "substantially the same," and that amendment could be required to have a three-fifths vote because the bill is more than ten days after the public hearing. And this might not be where you were going, but it's similar, substantially the same. Let's say when we start debating bills today, any bill on General File is pending before the Legislature. If an amendment is offered that is substantially the same, I guess, as any other bill, then it would take three-fifths vote to add that amendment to a bill which is pending on General File. And maybe the way I'm explaining it makes it difficult to grasp what it is that I'm saying, but at least I've said it for the record, so if it...

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SENATOR GLOOR: One minute.

SENATOR CHAMBERS: ...comes up then it will be clear that at least the body was alerted to that issue, to the fact that issues of that nature could be raised based on the wording of this bill. And if I've obfuscated, sometimes that's an intention.

SENATOR SCHUMACHER: Thank you, Senator Chambers. As Senator Chambers was talking there, suppose we have an amendment to a bill that starts out, as they always do, strike all previous language and insert this, and what is inserted is substantially the same? Does this rule prevent that technique? And that wouldn't be black magic. It might be white magic. But where we strike all the language and introduce an amendment that's substantially the same to a pending bill, which is a bill before us, are we prevented then by this language? I haven't thought that one through yet, but I think that's a question we need to discuss before we adopt this. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Schumacher. Senators in the queue: Crawford and Chambers. Senator Crawford, you are recognized.

SENATOR CRAWFORD: Thank you, Chair. And thank you, Senator Schumacher, for raising those challenging questions. We always rely on you to think through these issues and come up with creative ideas or different creative interpretations. I think it's an important question to consider. I wonder if it isn't reduced, if the threat of that situation isn't reduced by the fact that we can only introduce bills in the first ten days of session. So in the first long session, first ten days we're only introducing bills and so that wouldn't...couldn't happen then. So it seems the only risk is when we're debating bills in the short session, in these ten windows when a bill could be dropped. So that, in my mind, minimizes that risk. If I could just ask a question of Senator Lautenbaugh, please.

SENATOR GLOOR: Senator Lautenbaugh, would you yield to a question?

SENATOR LAUTENBAUGH: Yes, I will.

SENATOR CRAWFORD: Thank you. I just wanted to clarify on the language. It says, "prior to the public hearing or ten days after the public hearing." Does that imply we mean prior to the public hearing or prior to ten days after? Would that be read to assume that that also means prior to those ten days? Otherwise, it seems to me the...it looks like you can't do it if it's been ten days.

SENATOR LAUTENBAUGH: No, I read it as meaning prior to the...anytime prior to the public hearing or within ten days after the public hearing.

SENATOR CRAWFORD: But it doesn't say "within." It just says, "ten days after the

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public hearing." So I...

SENATOR LAUTENBAUGH: So you're maybe suggesting we add "or within ten"?

SENATOR CRAWFORD: If we added "within" or language, some language to clarify that. Thank you.

SENATOR LAUTENBAUGH: Thank you.

SENATOR CRAWFORD: Could I ask a question of Senator Schumacher, please?

SENATOR GLOOR: Senator Schumacher, would you yield?

SENATOR SCHUMACHER: Yes, I will.

SENATOR CRAWFORD: Thank you. I don't know if you heard my comment on your concern earlier that the...and the threat of somebody dropping a bill to just stall something or prevent something from being addressed on the floor. It shouldn't be a risk in the first long session but only be a possibility for bills that we're talking about in these first ten days of the Second Session. I don't know if that's sufficient reduction in threat to make you feel more comfortable with it, but it isn't the case that it could be used at any other time, because we have to drop our bills in the first ten days, it would seem to me. If you would...I would yield my...I don't know if you have a response to that question.

SENATOR SCHUMACHER: Right now I don't have a particular response to it. But if the amendment is offered prior to the public hearing, so that the technique of a preemption technique could be very effective, particularly if you have similar subject matter, early in the session. And we're holding off on the public hearing on a particular bill, you would create an issue there, or ten days after the public hearing, so to that offered ten days after the public hearing. So you have the public hearing and then presumably you could offer the amendment. Would seem that the ten...the public hearing must trigger the running of that ten-day clock then.

SENATOR CRAWFORD: Correct. Actually, I was coming back to what I thought you said the mischief would be, is if there's a pending bill and someone wants to create problems. They would drop a bill...

SENATOR GLOOR: One minute.

SENATOR CRAWFORD: ...that's substantially the same that wouldn't have had a public hearing yet. And so my point was that that threat would only exist, really, in the first ten days of the Second Session.

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SENATOR SCHUMACHER: I think you could get around that, and I'll just have to think that through a little bit.

SENATOR CRAWFORD: Okay.

SENATOR SCHUMACHER: And the other point that I was raising is what effect this particular language has on a substitution of a bill, if a bill comes up fast.

SENATOR CRAWFORD: Correct, that would be still a concern. Thank you.

SENATOR GLOOR: Thank you, Senator Crawford and Senator Schumacher. Senators in the queue: Chambers, Lathrop, Lautenbaugh, Murante, and Mello. Senator Chambers, you're recognized.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm going to look at it from a little different perspective, and it may be what everybody is talking about. But what the key to this is, the number of votes initially--three-fifths. By specifying a time period when that three-fifths vote would be necessary, once you're outside of that time limit then it takes 25 votes. You could then, by way of an amendment, pull a bill from committee by amending it to another bill. I couldn't get...well, I don't want to confuse an issue. But you can take 25 votes that you might have and it can be what is in that bill in committee and do it on with 25 votes. And if time is not of the essence, then this doesn't do anything at all. Sometimes--it goes back to what I was trying to discuss earlier--a change in the rule may create an issue, that didn't exist before that change, while trying to correct what is perceived as an existing issue. So I'm going to let others debate this proposition and I'm not going to say I'm for it; I'm not going to say I'm against it. But if I have a quiver containing arrows, if you want me to have more arrows in my quiver, I accept them and I thank you for them. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Chambers. Senator Lathrop, you are recognized.

SENATOR LATHROP: Thank you, Mr. President. Colleagues, good morning. I sit on the Rules Committee. We had a discussion about this rule. And really, I think we're making it too complicated here. First, Rule 3 deals with committees, so this isn't something that's pending on the floor. It's something pending in committee. I think you have to look at the proposed rule change in context. If you pull your book out, you'll see Rule 3 deals with committees, and Section 20 deals with bills that are held in the committee. So in that context, this deals with bills that have been presented or filed. They are before the committee and they have either had a hearing and we're within ten days, or they have yet to have a hearing. That's what it does. Now why does it make sense to do? This is a Murante rule. All he was doing was codifying, if you will, into the rules a practice that we used last year because the rules were silent on the subject. Think about it. If a bill has a

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hearing and it takes three-fifths to move it within the first ten days, doesn't it make sense that it requires a similar three-fifths before it has a hearing? I think it does. And that's our practice. If you don't adopt this, we'll go back and do it anyway, because that's the interpretation of the Chair the last time this came up, which I think was last year. So I would encourage your support of this rule. I think it makes sense. It really is doing nothing more than codifying what we did as a body when the rules were silent on the subject last year. And with that, I would encourage your support of our third proposed rule change. Thank you.

SENATOR GLOOR: Thank you, Senator Lathrop. Mr. Clerk for an amendment.

CLERK: Senator Crawford would move to amend the proposed amendment 3 from Rules Committee.

SENATOR GLOOR: Senator Crawford, you're recognized to open on your amendment to the committee amendment.

SENATOR CRAWFORD: Thank you. The amendment is simply to add the word "within," so it's "or within ten days after the public hearing," just to clarify that that's the window we are talking about.

SENATOR GLOOR: Thank you, Senator Crawford. Members, you've heard the opening on the amendment to the committee amendment. Senators in the queue: Senator Murante.

SENATOR MURANTE: Thank you, Mr. President, members. I support Senator Crawford's amendment. As Senator Lathrop said, I had introduced this. Basically, the process that I had used was nothing more than seeing how we operated as a Legislature and seeing when the rules were at times inconsistent with how we operated, and then creating an amendment which would be consistent with how we operate. It's not any change. I think the only thing that I would clarify, beyond what Senator Lathrop said that this isn't really changing how we do things but codifying how we do things, is to say that even if we adopt this, nothing is ever prohibited. The rule, as it exists, does not prohibit an amendment at any time. It just raises the bar from 25 to 30 if we're either before a public hearing or within ten days after the public hearing. So we have the ability to make any amendment we want to. It just raises the bar from 25 to 30 under a certain period of time. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Murante. Seeing no further senators in the queue, Senator Crawford, you're recognized to close on your amendment. Senator Crawford waives. Members, the question before us is, shall the amendment to the committee amendment to proposed rules be adopted? Those in favor signify by voting aye; those opposed, nay. Have all voted who care to? Record, Mr. Clerk.

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CLERK: 38 ayes, 0 nays, Mr. President, on adoption of Senator Crawford's amendment to the committee amendment.

SENATOR GLOOR: The amendment to the amendment is adopted. We continue debate on the amendment. Senator Chambers, you are recognized.

SENATOR CHAMBERS: Thank you. Mr. President, dealing with Section 20(b), it says, "Any senator may move that a bill be placed on General File twenty calendar days or more after the committee hearing." With this provision that you just adopted, a person, by offering an amendment which is the same as that bill, can have it adopted ten days after the hearing with 25 votes. Now it would take three-fifths. This short-circuits this requirement that you make the motion to place it on General File 20 calendar days or more after the committee hearing if the committee has not taken final action on the bill. So these rules and provisions have to be taken together. Let's say that there's a bill of mine and the committee has not taken final action on it, I don't have to wait 20 days to try to get that bill out of committee. If there's another bill that's on General File and it's up, it's being considered now, then I offer my amendment which is substantially the same as the bill being held in committee. But 20 calendar days have not passed since the committee had the hearing. On the 11th day after they've had the hearing, I can offer my amendment which is substantially the same as that bill of mine in committee, and I don't need three-fifths of a vote to get it out. Then that bill can stay in committee because, in effect, I now have the bill not only on the floor but it's attached to another bill. And I was able to get it not only out of committee, and I did not have to make a motion to pull the bill from committee. I just offered an amendment to amend a bill that's being considered now. And mine, if I pull the bill, it would go to the bottom of the bills on General File. With this one fell swoop, with 25 votes I can get my bill attached to a bill on General File. And somebody might say, well, if you've got 25 votes, what difference does it make? Well, maybe I wouldn't have the votes to pull it from committee in that short period of time. I wouldn't have three-fifths. What I'm trying to say, based on just looking at what we have before us now, is that people should proceed with caution and be sure they're doing what it is they want to do. As I've said in other contexts, I don't care what the rule is. All I need to know is what it is. I don't care what the purpose of the rule is. Once it's in the book, it's up to me to find a way to make it serve my purposes. And right now, I'm not saying what I'm talking about is necessarily my purpose. But by putting a time frame, as you've done now, on amendments, on amendments, the 11th day after that hearing I can then, in effect, pull my bill from committee by offering amendment. I don't have to wait 20 days. If I offered that motion to pull it before 20 days have elapsed,...

SENATOR GLOOR: One minute.

SENATOR CHAMBERS: ...the Chair can say that motion is out of order; 20 days have

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not elapsed so you can't make a motion to pull your bill. But I can offer an amendment the 11th day after the hearing, which is substantially the same as my bill, and get it attached. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Chambers. And that was your third time. Are there other senators wishing to be heard? Seeing none, Senator Lautenbaugh, you're...Senator Conrad, you're recognized.

SENATOR CONRAD: I'd be happy to yield my time to Senator Chambers, if he so desires.

SENATOR GLOOR: Senator Chambers, 4 minutes 55 seconds. Senator Chambers, you've been yielded, by Senator Conrad, 4 minutes and 50 seconds.

SENATOR CHAMBERS: Who was so generous as to do that?

SENATOR GLOOR: Senator Conrad.

SENATOR CHAMBERS: Oh, thank you, Senator Conrad. Members of the Legislature, at this point I'm not trying to confuse anybody. When you have two rules touching the same subject, you should be sure that one does not erase the other if that's not your intent. So I'm going to give the example again. There is existing right now language, and it goes into all the other steps that have to be taken if you're going to pull a bill from committee. If you make the motion, even 20 days after the hearing, then you've got to let the committee go back and decide whether they're going to do this or do that on the bill. Other things have to take place that will prolong the time for trying to pull a bill from committee under that provision of the rules. By setting this number of days that you've done now to allow an amendment substantially the same as a pending bill, it means that if I want to get a bill out of committee I don't have to let 20 days pass from the date of the hearing. I don't have to go through all that other stuff that that part of the rule talks about, giving the committee a chance to take some action and notify the Speaker and all these other things. All I have to do is find a bill to which my bill would be germane. I then craft an amendment which is substantially the same as my bill, which is in committee. Under the existing rules, 20 days must elapse before that amendment or that motion to pull the bill is in order. With this amendment that you adopted relative to amending a bill, I, 11 days after the hearing, can offer my bill as an amendment to a bill that's on General File or even Select File or even pull a bill back from Final Reading to Select File for specific amendment. And since the bill has already had a hearing, nobody can say, you can't do that. But in any case, that amendment which is the bill that's being held in committee, can be offered 11 days after the hearing. So 11 days after the hearing that bill can be on the floor of the Legislature by way of amendment. It couldn't and a motion couldn't even be made to pull it until 20 days after the hearing. And if you read that (b), then you will see all of these other complicating steps that must

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be gone through before the bill can actually be subject to the motion to pull it. You can file the motion 20 days after the hearing,...

SENATOR GLOOR: One minute.

SENATOR CHAMBERS: ...but it won't be acted on until all these other steps have been taken, if you're going to try to pull the bill. All of this that I'm saying that sounds confusing with pulling a bill is erased when all I have to do is make my bill an amendment and attach that to a bill 11 days after the hearing. That 20-day provision on pulling a bill and all the other things connected with it are now out of the picture. So if I've got a bill that the committee doesn't like, but if people on the floor like it, then 11 days after the hearing, we get that bill out on the floor and the committee cannot say, well, we'll hold it 20 days. And then all these other things have to be done, too, before the Speaker can entertain that motion and allow it to be acted on, on the floor. We have to think beyond what's in front of our nose.

SENATOR GLOOR: Time, Senator.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Chambers and Senator Conrad. Senator Lautenbaugh, you are next in the queue. There are no other senators. Do you wish to use this for your closing on the amendment?

SENATOR LAUTENBAUGH: Yes, I would. I would urge you to adopt the amendment as written. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Members, the question is, shall the amendments to the permanent rules be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk.

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of proposed amendment 3.

SENATOR GLOOR: The amendment is adopted.

CLERK: Mr. President, the fourth amendment I have is by the Rules Committee. It involves an amendment to Rule 3, Section 4.

SENATOR GLOOR: Senator Lautenbaugh, you're recognized to open on your amendment.

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. This amendment is fairly straightforward. Under our existing rules, for reasons that I assume

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are lost in the mists of time, the Chairman or Vice Chair of the Enrollment and Review Committee is the Vice Chair of the Judiciary Committee, by default. I'm not sure why that is, but that's the way it is in the rules as written. It was proposed that the Chair of Enrollment and Review be given the authority to select from the membership of the Legislature one or more Vice Chairs to assume the duties of the Chairman of Enrollment and Review as needed. This is another proposal that is meant to reflect the practice that has developed over time. As you all know, the E&R Chair stands up from time to time and has to move the E&R amendments. Sometimes the E&R Chair isn't here and someone has to do it in his or her place. It isn't always the Vice Chair of Judiciary who's on the floor and able to do that as well. Sometimes it is; sometimes it isn't. So the Chairman of Enrollment and Review has relied on others, from time to time, to do it in his stead in the last few years. This would make it clear in the rules that he is authorized to designate others as Vice Chairs to fill in, in his absence as well. It's a fairly straightforward rule. Again, I believe it recognizes the practice that has developed. I'm not aware of a compelling reason why the Vice Chair of Judiciary should be the Vice Chair of E&R, and I'm sure if anyone knows why that practice developed way back when, anyone who's been here for decades and decades, he will surely enlighten us. But since I don't know, I won't speculate. I'll just ask...urge your adoption of this final proposed rule change. Thank you.

SENATOR GLOOR: Thank you, Senator Lautenbaugh. We now move to floor debate. Senator Krist, you're recognized.

SENATOR KRIST: Good morning, colleagues. Welcome back. Good morning, Nebraska. I'd just like to address one question to Senator Murante, if he would yield.

SENATOR GLOOR: Senator Murante, would you yield?

SENATOR MURANTE: I would love to.

SENATOR KRIST: Thank you, Senator. And I know, I heard your presentation to the Rules Committee, so I understand the reason for that. There have been several times when I've been in the chair and you or Senator Larson are not available, and we seem to just pick someone who is the next one in line. What you're proposing here in rule would not prohibit us from continuing to do that should you, for whatever reason, be called out, would it, in your estimation?

SENATOR MURANTE: No.

SENATOR KRIST: Okay. Just want to make sure that's on the record. Thank you very much.

SENATOR GLOOR: Thank you, Senator Krist and Senator Murante. Senator

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Chambers, you're recognized.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Lautenbaugh, being a youngster chronologically and a youngster in terms of years in the Legislature, it's not surprising that he would not be aware of why the Vice Chair of the Judiciary Committee would do this. Long ago...as you know, the Judiciary Committee is the most important, most significant, most essential committee in the Legislature. Because the person who is the Chair of the E&R Committee is like the trainmaster, it was deemed that that is extremely important work. And since the Judiciary Committee itself did not do that kind of work, then, in the absence of the Chairperson who is given that position as Chair of the E&R Committee, is highly qualified, highly qualified, the only one in that person's absence suitable to try to step in and fill those very large shoes would be the Vice Chairperson of the most important, consequential, essential committee in the Legislature, and that would be the Vice Chair of the Judiciary Committee. It could not be the Chairperson because the Chairperson of the Judiciary Committee has such very important duties to be tending to and may be so occupied 24 hours of the day, 7 days a week, or as George Bush said, 7 hours a day, 24 days a week. But at any rate, I think the motion to amend the rules is probably in order, but I would like to find out one thing from Senator Murante.

SENATOR GLOOR: Senator Murante, would you yield?

SENATOR MURANTE: I would.

SENATOR CHAMBERS: Senator Murante, after this session, you will not be the Chair, because it's the newest and youngest person, a new senator and the youngest one, correct?

SENATOR MURANTE: By tradition, but I'm contemplating running for reelection.

SENATOR CHAMBERS: Okay. If you do or should you not run or should you run and not win, would a list be prepared in advance and made available to the Chair so if you are not here then that list of qualified, certified individuals would be available, because if you're not, then we do it just the way we're doing it all the time anyway?

SENATOR MURANTE: I would be happy to provide such a list, Senator Chambers.

SENATOR CHAMBERS: And is that what you contemplate, that whoever the Chair of that committee is will provide a list of fill-ins?

SENATOR MURANTE: Yes.

SENATOR CHAMBERS: Could that list comprise the 48 other members and any 1 of

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that 48 could fill in?

SENATOR MURANTE: Frankly, I'm entertaining that possibility.

SENATOR CHAMBERS: Thank you. That's all that I have.

SENATOR GLOOR: Thank you, Senator Chambers. Senator Lautenbaugh, you are recognized. You are, as we speak, the only senator in the queue. Would you prefer to use this as your closing?

SENATOR LAUTENBAUGH: Yes, I would. And I just think that's a sign that everyone is hungry, so. But I'll be brief but not as brief as you'd prefer. There were other rule changes we contemplated. I thought that's what Senator Krist was going to address. And something he brought forward we will discuss over this session, because we have to, we need to, because this is the time to do it, deals with our committee structure: how many people should be on committees, how many committees should we have, should committees be combined into other committees, how many days a week should committees meet, etcetera, etcetera, etcetera. This is the time to adjust that because, (A) it hasn't been done for a long time; and (B) we would do it now before the new Legislature comes in next year. We don't need to make that decision today, so we didn't debate that today. But there will be proposals floated and this is the time to think about it. You may all decide that nothing needs to be done. That's fine. But this is when it should be considered. We had a proposal to have votes for Chair and Speaker be record votes instead of secret ballots. That did not advance. Some of you breathe a sigh of relief. I have a constitutional amendment in the hopper that will drive you all crazy. We had a proposal that we proceed in worksheet order on Select File, because I have some bills stuck on Select that I now need...a bill that I need a priority for now perhaps to get to. And that didn't advance either. We've had some discussion about the rules and the rules that we aren't amending this morning, and last session we had discussions, probably ad nauseam for some of you, about the rules. But I think you all need to be open to employing the rules for your benefit and being familiar with the rules. And as is often the case, I'm reminded of, you know, in the committee hearing I guess someone suggested, well, we don't need to change the rules to say you can go in worksheet order or have to go in worksheet order on Select File. You can just make a motion to change the agenda every day. Well, that's in the rules. You surely can make that motion to change the agenda. And I'm trying to imagine how most of you would react to something like that, that you've never seen before. One of my favorite TV shows is a show called King of the Hill, which isn't on anymore, but there's a character named Dale Gribble who at one point said, wait a minute, a change in plans; that wasn't in the original plan. And that's how many of you will react to something that you don't see, because you're told, oh, we never do that, we don't vote to change the agenda, we don't vote to pull bills from committee; that's not part of the plan. Well, sometimes things don't go according to the plan. Sometimes the plan changes and you have to be nimble

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and you have to be familiar with the rules. And you have to be willing to listen and accept that sometimes the plan has to change if it's one of your priorities, and someday it will be your priority that is stuck, and you're going to want to be clever and you're going to want to change the plan. Please be open to it when it's not necessarily yours but somebody else finds himself behind the eightball. With that said, I won't belabor the point today. I thought about...well, not going to tell you what I thought about doing. I didn't do it. We'll try to move forward. And I urge you to adopt this rule. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Members, you've heard the closing on the amendment to Rule 3, Section 4, permanent rules. Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk.

CLERK: 39 ayes, 0 nays, Mr. President, on adoption of amendment 4.

SENATOR GLOOR: The amendment is adopted.

CLERK: Mr. President, Senator Mello would offer an amendment to the proposed permanent rules. In Rule 7 or, excuse me, Rule 3, Section 20 considered previously this morning, you would strike "ten" and insert "twenty."

SENATOR GLOOR: Senator Mello, you're recognized to open on your amendment.

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I was unable to get this amendment in time when we were discussing the third rules change by the Rules Committee, but Senator Chambers, I think, did a more than adequate job of explaining the inconsistency that the Legislature created when we adopted rule (c) back in 2012. I brought that initial rules change to the Rules Committee that essentially said that it would be a three-fifths requirement for any amendment that was substantially similar to a bill that was introduced. Senator Lautenbaugh and the Rules Committee instead chose to put forward an amendment that codified (c) with the same 20-day window that you identify in (b). As we came to the floor, for one reason or another, there were a few senators who I think had less than compelling reasons of why we should create a 10-day window, instead of utilizing the 20-day window that's currently under (b). And which, in the art of political compromise, I think the Legislature itself agreed that we would adopt (c) but do it with a 10-day window, even though there was an inconsistency, and provided senators that day 11 to day 20 window for them to provide an amendment to another senator's bill that was the equivalent of a piece of legislation that had not been passed out of committee. And they would be able to do so with a simple majority vote of the Legislature. The amendment you have here simply codifies what Senator Lautenbaugh and the Rules Committee proposed back in 2012 which makes it a 20-day window, similar to what you read in (b) that says, "Any senator may move that a bill be placed on General File twenty calendar days or more after the

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committee hearing." Subsection (c), as Senator Crawford mentioned earlier, with the adoption of the language she put in regards to "or within ten days," my amendment simply changes the word "ten" and puts "twenty." It makes it consistent with (b). It essentially answers Senator Chambers' question in regards to what I would say is an inconsistency that exists right now with the rules with the adoption the body just made previously under Rule 3, Section 20(c). I'd urge the body to adopt this rules change. It was a rules change brought forward back two years ago by the committee. And for some reason or another, we chose to change "twenty" to "ten," and my recollection, as I said, was more in the basis of trying to move forward with it and less in regards to the real policy area, that ultimately I think we tried to give committees the same process, whether or not a bill was held in committee or it was not being held in committee, let alone a senator being able to bypass the committee prior to that day 20. With that, I'd urge the body to adopt this committee rules amendment. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Mello. Members, you've heard the opening. Mr. Clerk.

CLERK: Mr. President, I have some items. New bills. (Read LB837-849 by title for the first time.) Mr. President, I also have new resolutions: LR396 by Senator Johnson; LR397CA is by Senator Lautenbaugh, a proposed constitutional amendment to Article I, Section 31; and Senator Johnson also offers LR398. LR396 and LR398 will be laid over at this time. Amendments: Senator Schilz, to be printed to LB550; Senator Hadley to LB474. And a series of name adds: Senator Watermeier to LB807; Kolowski to LB789; Kintner, Garrett, Schilz, Christensen, Coash, Bloomfield to LB300; Senator McCoy to LB812; and Senators Janssen, Larson, Schilz, Murante to LB832. Reminder: Reference will meet upon recess; Reference, upon recess. (Legislative Journal pages 187-194.) [LB837 LB838 LB839 LB840 LB841 LB842 LB843 LB844 LB845 LB846 LB847 LB848 LB849 LR396 LR397CA LR398 LB550 LB474 LB807 LB789 LB300 LB812 LB832]

And a priority motion: Senator Adams would move to recess the body until 1:30 p.m.

SENATOR GLOOR: Members, you've heard the motion to recess until 1:30. Those in favor say aye. Those opposed say nay. We stand recessed.

RECESS

SENATOR COASH PRESIDING

SENATOR COASH: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Mr. Clerk, please record.

CLERK: I have a quorum present, Mr. President.

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SENATOR COASH: Thank you, Mr. Clerk. Do you have any items for the record?

CLERK: I have a Reference report referring LB774 through LB820, as well as certain gubernatorial appointees. That's all that I have, Mr. President. (Legislative Journal pages 195-196.)

SENATOR COASH: Thank you, Mr. Clerk. We will continue on the agenda left at the noon recess.

CLERK: Mr. President, when the Legislature recessed, pending was the motion to adopt permanent rules. Senator Mello had presented an amendment to that regarding Rule 3, Section 20. That amendment is pending.

SENATOR COASH: Thank you. We'll continue discussion on Senator Mello's amendment. Senator Chambers, you are recognized.

SENATOR CHAMBERS: I'll pass for now.

SENATOR COASH: Senator Murante, you are recognized.

SENATOR MURANTE: Thank you, Mr. President, members. I'd like to ask a question or two of Senator Mello.

SENATOR COASH: Senator Mello, will you yield?

SENATOR MELLO: Yes.

SENATOR MURANTE: Okay. Before I ask the question, I'd kind of like to play out what I think you're doing here, and you tell...first, tell me if I'm incorrect and then I'll ask you a couple of questions. So as I understand it, to pull a bill--let's just call it LB1--to pull LB1 which is stuck in committee out of its committee and put it on General File, it takes 30 votes to do that up until 20 days after its public hearing. Is that accurate? After 20 days it drops down to 25, is that correct?

SENATOR MELLO: Yeah, that is correct.

SENATOR MURANTE: Okay. Now if I want to offer an amendment to LB2, which is sitting on General File...

SENATOR MELLO: Um-hum.

SENATOR MURANTE: ...but it's substantially the same as LB1 which is stuck in

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committee, that requires 30 votes until ten days after the public hearing. Is that correct?

SENATOR MELLO: That is correct.

SENATOR MURANTE: And you're offering to make both 20?

SENATOR MELLO: Yes.

SENATOR MURANTE: Okay. So here's my thought. And I understand in your introduction that in your view this was basically harmonizing two provisions which were basically the same thing. My concern is that I think there is a substantive difference between taking LB1, in this example, taking an entire bill which a committee has not yet voted on, plucking it out of committee and putting it on General File, than taking something that is substantially the same as that bill and amending it onto a bill that's on General File. Let me tell you why: because last year this issue sort of was predicated on an amendment that Senator Lautenbaugh had offered to a bill that Senator Lathrop had on General File. This Legislature determined that that amendment was substantially the same as an amendment that Senator...as a bill that Senator Lautenbaugh had in the Business and Labor Committee that had not yet had its public hearing. The amendment took one section out of a six-section bill and attempted to amend it onto Senator Lathrop's bill. So one-sixth of the bill was deemed...the amendment was one-sixth of the bill but the amendment was deemed to be substantially the same as the bill itself, which is fine. As Senator Mello and I talked about earlier, in my view the term "substantially the same" is an utterly meaningless term. I think it is a term that, as has been described to me by senior members, it will change from the start of the session to the end. I've found that whether we think something is substantially the same or not just is completely contingent on whether we support that proposal or not. It is a term that has no real meaning. But I can conceive of an instance where you're taking a portion of a bill--we'll say one-sixth since that's the standard that we adopted last year--that is innocuous in nature, it doesn't do anything harmful, it might be part of a bill that is controversial, but the amendment itself just plucks one-sixth of a bill and puts it onto another and it's something that we or a bulk of us might agree upon. And I'm not sure it makes sense to treat that amendment the same way as if we are dealing with a bill in its entirety that a committee has chosen not to act upon. It seems to me when I read the rule book for the first time it seems that there...it makes sense to have two different standards...

SENATOR COASH: One minute.

SENATOR MURANTE: ...because we're not talking about the same thing. It seems that if you're going to take an entire bill out of a committee and put it on General File, it makes sense that the bar ought to be a little bit higher than if all you're trying to do is take a portion of that bill and put...and amend it onto a bill that's already on General File.

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That tends to make sense to me. I'm willing to hear more of what Senator Mello has to say about it. I'm sure he will speak again on the subject matter. But the two issues do not seem to be the same to me and I'd be...I'll be looking forward to further debate. Thank you, Mr. President.

SENATOR COASH: Thank you, Senator Murante. Senator Lautenbaugh, you are recognized.

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And Senator Murante has a good memory, better than mine. Sometimes a bad memory serves you well or a poor memory serves you well because you move on. And sometimes people bring things up and you're tempted to start talking about them again. So remember that standard from last year because it apparently will come around again that "substantially the same" means one-sixth. So if your bill is...your amendment is one-sixth the same as something, it's substantially the same. That's a ruling or a definition that we'd probably obtain only in this Chamber and, I'd submit, nowhere else on the planet, but that was the ruling last year. And if I'd been more into it we probably would have spent a week talking about that. And this is another year so we'll see. But I have an amendment that I've put in. We'll see if it's...if we're going to it or not. It's unclear. If we want to standardize these, let's standardize them. We can make them both ten so you can't move to pull a bill from committee until ten days after the hearing and you can't introduce an amendment that is substantially the same, which careful observers will note means one-sixth the same, until ten days after the committee hearing. So if we're into standardization, that would accomplish that goal. Ten and ten would be the same. And I understand exactly what Senator Murante is talking about that we are kind of comparing apples and oranges here. And I was not troubled at all by this inconsistency between 10 and 20. I oppose this amendment, Senator Mello's amendment. I support my amendment to his amendment, obviously. I don't think it's necessary that we do either one of these really. So I'd ask you to support my amendment to the amendment but if that fails, oppose the amendment. I don't think the inconsistency is an inconsistency we should be concerning ourselves with. I think I tipped my hand to that by closing very fast on the amendment previously as Senator Mello was running up there to amend it the last time around. So I did not want to have this discussion even. So I will leave it at that. Thank you, Mr. President.

SENATOR COASH: Thank you, Senator Lautenbaugh. Senator Mello, you are recognized.

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I'll have to respectfully disagree with both colleagues, Senator Murante and Lautenbaugh. First, Senator Murante, I think we just have a general disagreement in regards to winning or losing a Chair or presiding officer's judgment of what "substantially the same" means. Senator Lautenbaugh is trying to revise history a little bit in regards to the debate that

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was held last year on a bill of his...an amendment of his on Senator Lautenbaugh's bill...Senator Lathrop's bill regarding workers' compensation. The Chair ruled at the time that it was substantially the same. That interpretation is going to always be left up to the presiding officer and the body as a whole to make the determination if they agree with the presiding Chair. In that specific instance your amendment was considerably the same or substantially the same as the meat of the legislation you introduced. The body concurred with the Chair and we moved on. If the argument or the concern is what "substantially the same" means, then that's a conversation for another day. But as Senator Murante, myself, and my aide were talking after we adjourned, that language is used throughout our rules in regards to substantially the same. That's left up for interpretation. Sometimes the Chair may agree with you; sometimes the Chair may disagree with you. But that's something that is universal throughout our rules that I'm not...in no position or not trying to advocate making that change. I trust the fact that we're going to get a ruling from a Chair. I may disagree with it at times. I may agree with it at times. But we'll take that up by a case-by-case basis. With all due respect to Senator Lautenbaugh, I think his proposal that he's putting forward I think is either, one, just something to burn up time, or it's something that he's just not happy with the fact that this was an amendment that came out of his Rules Committee two years ago. In the reality, there was no rhyme or reason of why we took 20 down to 10 with the pure exception that there was a member on the floor who just didn't like the fact that it came out of the Rules Committee. And I remember the debate. The more I looked at what we talked about was that there was a gaping loophole in our rules and that's what we were trying to fill, that a senator could introduce a bill, not have a hearing on it, and/or not have it be taken on action by the committee and simply introduce that bill as an amendment to another senator's bill and, as I've described, hijack another senator's piece of legislation. This amendment...this rule was adopted to try to stop that and making it 20 days made it a higher vote threshold for a senator to be able to, in theory, introduce their bill on the floor, bypassing the committee process. I appreciate the rule that Senator Murante brought in regards to saying it was prior to a bill introduction or the committee hearing or ten days after the committee hearing. I think that strengthens the original proposal that I brought forward to the Rules Committee a couple years back. But let's not forget they first brought out 20 days to make it consistent. They thought it needed to be consistent to protect the committee process and the integrity of when committees determine to make a decision or choose not to make a decision. In this case senators have day 11 through day 20 to bypass the committees that they so choose. And if Senator Lautenbaugh wants to reduce the committee authority over bills, that's another policy debate, I guess, that we can have. But I don't think the Legislature as a whole has ever said we want to weaken the committee process and make it easier for senators to go around the committee process and to just do whatever they want when it comes to bills they care about. I've taken the view that the committee process works well. I've had bills that have not come out of committee for whatever reason and I have tried to advocate those committees to take action. Unfortunately, I've lost a lot of battles over my five years in the Legislature and I'm sure I'll lose more battles in the

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future. But the rules are there to protect the process itself, to not allow one or a handful of senators to come in and try to avert and subvert, I would say, the will of a committee simply because they couldn't get their bill out of committee. Now reasonable people can disagree. I just think that I have a more...I think the proposal we have in front of you is what...

SENATOR COASH: One minute.

SENATOR MELLO: ...the Rules Committee, chaired by Senator Lautenbaugh, had proposed was good policy for the Legislature to consider. It protected the committee process. It made it more difficult for individual senators to try to hijack another senator's bill simply by adding an amendment that was a bill of their own. I think lowering it down to ten is an absolutely terrible idea and will advocate as long as I have to, to ensure we don't do that. But I think adding 10 to 20 and harmonizing it simply was a proposal that the Rules Committee proposed two years ago which we changed on the floor for really no reason with the exception to move forward with the Rules report. With that, I'd urge the body to adopt my rule change, moving it from 10 days to 20 days, harmonizing with our existing committee rules structure. Thank you, Mr. President.

SENATOR COASH: Thank you, Senator Mello. Mr. Clerk, you have an amendment.

CLERK: Mr. President, Senator Lautenbaugh would move to amend Senator Mello's amendment with respect to Rule 3, Section 20(b), by striking the contents of the Mello amendment and changing 20 to 10.

SENATOR COASH: Senator Lautenbaugh, you are recognized to open on your amendment to the Mello amendment.

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. Again, this is the amendment I described previously. This would standardize the two time periods. Instead of standardizing them each at 20, we're standardizing them each at 10. So you can pull a bill from committee ten days after hearing; you can make an amendment that's substantially the same ten days after the hearing. I'm not sure why standardizing at 20 is preferable to standardizing at 10, especially as someone who is not the Chair of a committee. In a short session we have 60 days, and so 10 days would be one-sixth of that. So that's substantially the same as the whole session. So I don't know why we wouldn't opt for that. That's almost the whole session you'd have to wait. I'm being a little facetious there. But I don't understand really...again, we're talking about the rules and we're talking about how, well, we've got to be respectful of the rules. But are we, honestly? And we're talking about how some nefarious senator could circumvent the committee process by, heaven forbid, using the rules. And this is a change in existing rules. Don't be misled. The current rule says 10 days for an amendment that's substantially the same and 20 days if you want to pull your bill from

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committee. So this would change to make it harder to bring an amendment that is deemed substantially the same. And as we've discussed, substantially the same is whatever the Chair rules it to be, and sometimes you can have something that is patently absurd as a ruling from the Chair and unless you can get the body to overrule the Chair, you're stuck with it. And this kind of dovetails nicely with a conversation we had this morning where I quoted King of the Hill and said, wait a minute, a change in plans, that's not part of the original plan, you never overrule the Chair, you never pull bills from committee, you never do all the things that the specific rules apply or authorized because that's not part of the plan. And I'm turning from Dale Gribble to the Joker and saying that you'll all go along with the plan, even if it's horrific sometimes, as long as it's part of the plan. That's okay with you but that's not okay. Sometimes the Chair is wrong. Sometimes you have to actually read the rules and apply a rule that allows you to do something, and sometimes you're supposed to bring your own independent judgment to bear. The Chair isn't always right because he or she is in the chair. The Chair isn't always the Speaker. The Chair isn't the Speaker right now if you'll look up front. Not that this Chair is more inclined to error than any other Chair, but they're not vested with infallibility; they're just vested with a different microphone when they sit up there. You're supposed to be skeptical of these things and bring your own judgment to bear. And last session I think we all dropped the ball demonstrably and now we're talking about it again, which was not my intent but yet here we are. So, yes, if you make the change that Senator Mello is proposing, you are deferring to the committees a little bit more, giving a little bit more deference. Well, the committees decide when bills get hearings. And guess what? Some committees favor some bills over other bills. I know that will be a shock to many of you, but some Chairs don't like some bills. Some Chairs don't like some senators. Some senators make it their business not to be liked, apparently, here on only Day 56. I'm working on it. But how much authority do you want to give over to the committee process and how much do you want to retain that's currently in the rules? You're being asked by Senator Mello to give away another ten days of your discretion, if you will, in a short session. And that's just another tool that I recognize many of you would never dream of employing because we all know from the placid Flood era that that's just not how things are done. We don't use some of these rules because it just irritates people when we use some of them. So we just don't apply certain rules anymore because it's annoying. But someday...and the day will come, I hope, when you actually have something that you care about on the floor and you are trying to get something done on the floor and it isn't going to be good enough when you look your constituents in the eye or when you look school children in the eye or when you look people who work at racetracks in the eye and you have to say, I'm sorry but I couldn't do that last thing, I couldn't bring that last measure of fight to the floor because that would be offensive to the committee process. You'll understand how that's not a position you want to be in. You don't want to say, I'm sorry I didn't try as hard as I could to save your jobs because some rules are just offensive to some in the body. People don't understand that. You're here to fight and you're here to apply the rules for your priorities and play within the rules but use them all. And if the current rule says ten days

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after a committee hearing you can bring an amendment that's substantially similar to a bill and you're not controlling the committee process, which is the case for most of you, then you should cling to this right like grim death because someday you may need it. And if you can't conceive of a circumstance where you might need it, then you should probably step down because there's no point in you being here if you can't conceive of a circumstance where you're going to be in a fight because you should be able to conceive of that possibility or I'm not sure why you came here. Thank you, Mr. President.

SENATOR COASH: Thank you, Senator Lautenbaugh. Members, you've heard the opening to the Lautenbaugh amendment to the Mello amendment. The floor is now open. Senator Mello, you are recognized.

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I rise in opposition to Senator Lautenbaugh's amendment. As I mentioned before, I think it's...one, it starts to create a slippery slope of circumventing the committee process. But I take offense to Senator Lautenbaugh's comments in regards to our abilities as individual senators to advocate for the priorities and legislation we bring. Reasonable people can disagree in regards to whether or not it should be 10 days or 20 days. But the difference that Senator Lautenbaugh is trying to make is that you just don't care about your constituents if you don't try to use every rule regardless of the decorum of the body, regardless of the relationships of members within the body, willing to step on anything and everything you have to do to get something you want regardless of its impact. Unfortunately, I just don't share that same perspective that Senator Lautenbaugh does. I'm one to believe that if we can find compromise we should go for that first and, at times, there will not be compromise and we have debates and sometimes you win, sometimes you lose. But I take offense to the fact that because I'm willing to compromise and trying to find solutions instead of simply driving my own agenda ahead of everything else that somehow I'm less of a senator. I think we need to be very careful when we make arguments in regards to our internal operations, in regards to trying to classify each other, in regards to whether or not we're doing our jobs or not doing our jobs. His amendment simply says you can try to pull a bill from a committee ten days earlier, regardless of whether or not the committee made a decision on it. He wants to harmonize it right now the same way we have subsection (c). I think that takes away power from the deliberative process of the committees. As I mentioned last year in this debate on Senator Lathrop's bill, if you have a problem with the committee and the scheduling of your bill, talk to the committee Chairman or committee Chairwoman. Ask them that you would like to have your bill up, heard early if possible. Walk them through what you'd like to do. The process simply of trying to run your legislation as an amendment to another bill was a loophole that existed in this...in our rules system. And we had senators, who will remain nameless, do that on a semiregular basis. Bills wouldn't get out of committee so they would try to take someone else's bill and throw their bill on that regardless of whether or not the senator wanted it, regardless

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if they thought the policy was similar, full well knowing that the bill was never going to get out of committee. That's why we adopted subsection (c) was to try to stop that from occurring or at least lessen the ability for that to occur. It still can occur even after the rules change we adopted of Senator Murante's today. I simply believe that this amendment rule concept that was brought from the Rules Committee a couple years ago stayed with 20 days for a reason, that our existing rules regarding a senator's ability to pull a bill from committee was set at 20 days. It was a reasonable number that's been there for awhile. The Rules Committee decided to say, if that's the case we won't allow senators to run amendments that are substantially the same within that same 20-day window period. We'll codify the rules together. For one reason or another we didn't do that and we have this 10-day and 20-day rule. This will not be the biggest decision we make, colleagues, believe me. I just think that it was the original proposal that came from the Rules Committee and there was a good reason why members decided to do that. And if we're going to discuss trying to protect the institutional rules and whether or not a senator can pull a bill or run a bill that's essentially their bill to another senator's bill, I err on the side of the committee. I err on the side of their ability to take as much time as they need to have deliberative process and debate internally, talk with the introducer, try to find a way to find compromise. Unfortunately, there's some bills that we just can't find compromise on. I understand that. I've had legislation where...

SENATOR COASH: One minute.

SENATOR MELLO: ...it's simply died in committee because we couldn't get to yes. Giving more time to committees to be able to do that I don't think is a...I don't think it speaks ill of individual senators. I don't think senators are not fighting for their priorities or not looking their constituents in the eyes saying, I didn't work my hardest to pass this policy because I gave the committee ten extra days to see if we can find a compromise on a touchy area where there is disagreement. I think the last thing we ever want to consider in this body is to start to move away from policies that encourage compromise and instead try to drive senators to advocate their own individual agenda regardless of what other members or interests may have. I think Senator Lautenbaugh's amendment I think sets us back. I think my amendment moves us forward. But we, as I said, have much bigger issues to work on this session so I'll leave it at that. Thank you, Mr. President.

SENATOR COASH: Thank you, Senator Mello. Senator Lathrop, you are recognized.

SENATOR LATHROP: Thank you, Mr. President and colleagues. I want to bring a different perspective to this. First, I would oppose Senator Lautenbaugh's amendment to change these numbers to 10 days rather than 20. And maybe there's a number of people here who have not had the occasion to serve on a...as the Chair of a committee and maybe let me give you the perspective of a committee Chair because...and I'll use some examples that don't involve me or the Business and Labor Committee. But much

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of what Chairmen do in this body during the process of hearing bills, we have a bill introduction then we have the committee hearings. A lot of times what the Chairs of the committee are doing is bringing ideas that have been introduced by various senators to a...it's not even a compromise. Sometimes it'll be a complete treatment of a subject matter. I'm going to use Natural Resources Committee, if I can, and go back to a time when Chris Langemeier was the Chair of that committee. There were a number of bills that were introduced that year that dealt with wind energy. The progress of the development of wind energy in this state included a significant bill that came out of the Natural Resources Committee I'm going to say three or four years ago. There were a number of bills that had been introduced and that committee took the time to listen to the bills. They may not have all come in all on the same date, right? But they required that there's follow-up, there is bringing people together that happens after a bill has been introduced in a committee, there is trying to make sure that each piece of what's been introduced by different senators comes together in a thoughtful way. Now the question with these two amendments is whether that should happen in two weeks or four weeks. Okay. I know that down in Judiciary Committee we have so many bills that are introduced--and I'm not kidding--we have so many bills that are introduced down in Judiciary Committee, we don't have time for that right away. Okay. So if you want to introduce a bill in Judiciary Committee and pull it two weeks later, does that make sense? Because that's the question, and it's not about any one person playing games with somebody else or trying to jack somebody around. But it's about whether the committee...and we all serve on committees and you've all been involved in this since you've been here. Whether you chair a committee or not you've been involved in that process where you're bringing the ideas of various senators together, getting the input of various people so that the bill you put out is in its best form, so that it comes out here the cleanest it can be, that the consequences of the legislation have been thought through by a committee that has had a full opportunity to work the bill. By having someone be given the...put in a position where they can pull it within two weeks of the time it's introduced I think you frustrate that process. We will have better legislation if that bill sits in committee for a longer period of time, in my judgment. It allows for collaboration; it allows the committee and the Chairman...Education is a great example. How many bills get introduced into Education every year? You all bring bills to Education and that committee is a perfect example of working together to find what is the right policy for education going forward. And a lot of times we have a big bill or two that comes out of Education that has been thought through by the members of that committee who have listened to the testimony. And if you let somebody pull it out of there within two weeks, they don't have a chance to clean it up, to knock the rough edges off of it, and to mold it into part of what will be good policy in the judgment of that committee going forward.

SENATOR COASH: One minute.

SENATOR LATHROP: I really would encourage you for those reasons to oppose the

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Lautenbaugh amendment, although I know he means it sincerely, to oppose that amendment and to go with the 20 days which is the original form. Thank you.

SENATOR COASH: Thank you, Senator Lathrop. Senator Chambers, you are recognized.

SENATOR CHAMBERS: Mr. President, members of the Legislature, as always happens when we get to an issue that cuts close, we expand into other areas. And it might be good to do it at the beginning so that everything is on the table, we know where people are. You're always going to know where I am if I decide that you ought to know. But if it's something I'm not going to tell you, I'll just quote "Stonewall" Jackson, even though I don't wear coat...yeah, I'll wear coat sleeves. If the sleeves of my coat knew my plans I should have to burn my coat--that means it's none of your business and you'll find out when I decide to tell you. But at least you have a fairly good indication of where I stand on any issue that comes before us, which is more than I can say for a lot of my colleagues here. Now you can't come here and survive well if you wear your feelings on the tips of your fingers. I tell people that my hide...first of all, some of you are young. I have to keep that in mind. There used to be a soap commercial: For the skin you love to touch. You use the soap, makes it real soft. I tell people that to the thickness of my skin, if you could combine the skin of a tyrannosaurus rex with a rhinoceros, an alligator, and a crocodile thrown in, by comparison to mine that would be the skin you love to touch. I don't care what these people say about me on the floor. I want them to say it here so I can deal with them. Don't say it behind my back as often happens. And I will deal with them. I won't stand up here and say, you hurt my feelings, you shouldn't say that. Say it and expect to get back what you give to me. We are adults, not little children, and I'm going to treat you all the way adults should be treated. But I really don't do that because sometimes I feel like it's child abuse. How in the world can I expect some of you to produce a bushelbasket full of sense when you come down here with a thimbleful of brains? You don't know how hard it is for me to avoid saying certain things as when I know people are speaking against people of Spanish derivation or who speak Spanish and they use code words like you ought to speak English. And I feel like telling them, then you ought to go to an English class because you don't speak proper English on this floor. "Them laws, them there," you don't speak proper English. So if the way English is spoken determines the rights and the respect you ought to be accorded, I should be accorded more respect than anybody on this floor bar none, and I get less of it. But do you think that's going to make me a shrinking violet and I'm going to sit here--well, stand here--and pout because you all don't agree with me or you don't like me? You're supposed to not like me. I'm a black man interested in freedom for black people, and how in the world can I expect white people to agree with that? Why, I'd be crazy. Now some will pretend. And there used to be a radio program called Let's Pretend and I listened to it. But when we get to these kind of issues they draw out of people some of what we're going to be dealing with during the session. I'm the one who knows that until we get down into the hind end of the session people are going to

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pretend. And then as we begin to run out of time and the pressure is put on them by certain interest groups or their own agenda, then their tempers are going to get short.

SENATOR COASH: One minute.

SENATOR CHAMBERS: Their fuse is going to get shorter and we're going to have some explosions. And when you all are in a state of chaos, havoc, you think I don't enjoy that, watching my foes? Go at each other, Senator Nelson. You know I like that. It lets me keep my weapons sharp, Senator Johnson. Here's the thing: When I'm being dealt with they want to pass rules against me and then come to me and say, Senator, we're going to be in a sword fight. I say, okay. So I sharpen my sword and I train for sword fighting. Then you come to me with dull swords and I cut you a new one. You say, that's not fair, you used a sharp sword. I said, you should have sharpened yours, too, you started the fight, you chose the weapons, you sharpen your sword when you come after me and know what you're doing. Now that that's out of the way, my next time around I'll talk about what is before us. Thank you, Mr. President.

SENATOR COASH: Senator Chambers, you are recognized.

SENATOR CHAMBERS: Now here's where we are: Some people talk about respecting the committee structure, respecting the committee system. These committees are not populated by anybody other than those of us on this floor. If I don't like you on the floor I don't like you in committee. You think when you go there you're going to have a magical cloak draped over you like the Harry Potter movies where they--and the books--where you can put on an invisibility cloak and nobody sees you? That you can do like The Shadow on the radio used to be, you can cloud men's minds so they cannot see you and, I would add, so they cannot see what you really are? We know what each other is and are. Jesus and I have one thing in common, maybe more than one, but I don't want to offend you Christians and so-called and pretend-to-be Christians. It was said of Jesus he had no need that anybody should speak to him of man for he knew what was in man. You think I'm going to stand up here and pretend that I don't know what I'm dealing with? You think I don't know it's hypocrisy when you all get up there and pray in the morning? Where are all the chaplains? Where are all these preachers? They don't want to come here and pray over you. It's a waste of time. You know what their philosophy is? And they got it from the "Bible," cast not your pearls before swine for they will trample them then turn and rend you also. And they're not going to cast their pearls before those they designate as moral swine. You think you're doing something by having somebody come and pray here every morning. They watch what you do. Jesus told you to be worried and take care of and for the poor. And what do you do? I'm not going to extend any medical care for them; they should have been born rich; and if they ain't born rich, by God, they shouldn't get sick, their children shouldn't get sick, their wives should not have a miscarriage. Then the Attorney General would say, everybody go and get a colonoscopy or, as your President Bush said, a "call-on-oh-scopy." Who

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can afford a "call-on-oh-scopy?" Do you know what a "call-on-oh-scopy" costs? He can cover it and that's why he in his hypocritical self say, I will spare no means to kill somebody through execution but I'm against extending medical care to people who need it. You think I'm going to put on kid gloves and pussyfoot around here? You, Senators, a lot of you have got insurance. You can afford it. Some of your families have given you something. Some of you have retirement programs. You're double dipping. Then you have the nerve to pray to somebody called Christ or God or in the name of Christ and then you stand up here and do what other people would call the devil's work. But I won't. The devil is more honest than you are. The devil is more trustworthy even when people are writing in literature about people selling their soul to the devil. You know one thing you can count on from the devil? The devil always delivers the goods. The devil always delivers on what he promises, always. And then he comes to you and say: I upheld my end of the bargain, now you uphold yours; I came to claim a very tarnished soul; give me what is mine; give me what you agreed to give me after I gave you what you asked for. You can count on the devil. I can't count on your Christ. I can't count on your god. I can't count on you who say you worship Christ and believe in God. You don't believe any of that. It's trite for you.

SENATOR COASH: One minute.

SENATOR CHAMBERS: And you know how I can tell? A tree is known, Senator McCoy, by the fruit it bears. And if I have insurance and can pay for mine and then I want to deny it to somebody else, that is a tree that Jesus said is wicked and the axe is laid at the root of the tree. It ought to be cut down and cast into the fire. That's what the "Bibble" says. You don't like the "Bibble" coming from me, do you? You want somebody up there looking pious, intoning things like, "Help us all do what you're supposed to do and to rule the way we should rule and in the name of Jesus, amen." That's what you do. I watch you. It's a show. It's a circus. It's a carnival. It's a Barnum-and-Bailey world just as phony as it can be, and you know it and I know it.

SENATOR COASH: Time, Senator.

SENATOR CHAMBERS: You're not going to practice what that "Bibble" says. Jesus told you...

SENATOR COASH: Time, Senator.

SENATOR CHAMBERS: You said time?

SENATOR COASH: Time.

SENATOR CHAMBERS: I've...passes fast when you're having fun. Thank you, Mr. President.

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SENATOR COASH: Thank you, Senator Chambers. Senator Kintner, you are recognized.

SENATOR KINTNER: Mr. President, thank you very much. Senator Chambers, will you yield to a question?

SENATOR COASH: Senator Chambers?

SENATOR CHAMBERS: As many as you would choose to ask me.

SENATOR KINTNER: I hope I didn't miss this somewhere along the line: Are you for or against this amendment? What do you think of this amendment by Senator Lautenbaugh?

SENATOR CHAMBERS: I will talk about that the next time I come up because it would take more time than you would be willing to give me.

SENATOR KINTNER: I will yield the remainder of my time to Senator Chambers.

SENATOR CHAMBERS: Thank you. Members of the Legislature, this amendment that's being dealt with simply indicates that after a certain period of time and the committee has not acted, then a member who has an interest in that bill who has made it clear that this is a part of his or her agenda by offering the bill--and nothing is wrong with that--to say, I'm going to try to persuade 25 of my colleagues to see it my way, I think the committee should have done something by now. And at that time the Chairperson can stand up and say all the things that Senator Mello said--we're in negotiations, we're doing this, and we're doing that. But I whose bill it is am not a part of any negotiations that will make me change my mind because I want the bill out here. So what the amendment if it's adopted would say: Ten days after the hearing if the committee has not acted then a motion can be made or you can offer an amendment 11 days after the committee has had a hearing to amend a bill with your bill and at that time you'll have the discussion as to whether or not enough members agree with what you're trying to do for whatever reason. It could be that they agree with the bill itself, the amendment you're offering, or it could be that they think the committee has not been fair in taking action. We don't have to account to anybody why we do anything. And if we offer an accounting we could be lying through our teeth so it doesn't mean anything. Any discussion that the Chairpersons of these committees think ought to be advanced to prevent a person from either just going the ordinary way and pulling a bill out of committee or, under the amendment that had been adopted earlier, the 11th day you can make an attempt to amend a bill with your bill, with the amendment that was adopted today, the only way you short circuit the 20 days is by offering it as an amendment to a bill. You don't make the motion to pull your bill. Even with the amendment adopted this morning you did not

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disturb the bill...the part of the rule that says if you want to pull the bill itself you cannot do that in fewer than 20 days after the committee has had a hearing. Then there are other actions that take place, such as giving the committee a chance to do something on the bill and so forth. If you don't want to go through all that, if you don't want to wait 20 days, you offer the amendment. Here's another item that I didn't mention: If you make a motion to pull a bill and it fails, the bill is dead. If you use the short-circuit method...

SENATOR COASH: One minute.

SENATOR CHAMBERS: ...of trying to do it with an amendment, if your amendment fails and you do not get it attached to this particular bill, your bill is still alive in committee. Failure to adopt the amendment does not kill your bill. Failure to succeed in a motion to pull it from committee kills the bill. It gives you alternatives. You can choose, as some people say, your poison. So I will not say at this point how I will vote on this particular amendment because I want to see where people will go on their own. But I definitely intend to vote one way or the other. Senator Kintner is turned this way but he looks like he's having an awfully hard time staying awake. I think I said something that made him jump and then he might have got the tail end of one of my sentences and said, ah, well, I've got to say something about that because some constituent I'll have will say, Senator Kintner, why did you sit there and let him say that and didn't say anything?

SENATOR COASH: Senator Chambers, you are now on your own time.

SENATOR CHAMBERS: Thank you, Mr. President. I'd like to ask Senator Lautenbaugh a question.

SENATOR COASH: Senator Lautenbaugh, will you yield?

SENATOR LAUTENBAUGH: Yes, I will.

SENATOR CHAMBERS: Senator Lautenbaugh, because a number of items have been discussed, exactly what would your amendment do?

SENATOR LAUTENBAUGH: It would standardize the two time periods in question in the rule making it ten days after the committee hearing before you could make a motion to pull a bill from committee and ten days after the committee hearing before you could introduce a substantially same amendment onto another bill.

SENATOR CHAMBERS: And you can choose either process you want?

SENATOR LAUTENBAUGH: Yes.

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SENATOR CHAMBERS: Now if you choose to try to pull it from committee and it fails, your bill dies.

SENATOR LAUTENBAUGH: Yes.

SENATOR CHAMBERS: If you offer the amendment, maybe people won't adopt the amendment today, but that doesn't mean they might not go for it on another bill. Is that true?

SENATOR LAUTENBAUGH: Yes.

SENATOR CHAMBERS: Thank you. Members of the Legislature, try to put yourself in the shoes of the person who might be affected by this amendment. There are some times I think the process is the most important thing. In this instance I think the benefit to the individual senator is uppermost. If it were you, would you want to have to get one shot and if you miss it, it's curtains? For example, Senator Garrett, I think a lot of these people running around here and bidding \$13,500 to shoot a cougar out of a tree who has been chased down by dogs would have a lot different attitude if the cougar had a gun and knew how to shoot it also. Now I'm coming back to this: Would you want more than one bite at an apple that means a great deal to you? You know how fluid things can be on this floor. I had tried over and over last session to pull my bill out of the wicked Revenue Committee which would take away from Omaha the power to levy that optional half-cent sales tax, couldn't get it out. I tried to offer it as an amendment to other bills, couldn't get it out; harassed and hounded other people's bills, couldn't get anything. But I watched how things developed and then I saw circumstances coming together. Then when there was a confluence of everything, when the moon was in its seventh house and Jupiter lined up with Mars, then I said, there can be some peace on this planet because I am now going to get what I want and, by God, the lion shall lie down with the lamb. There shall be no more wars, no rumors of wars. Everybody shall be at peace and the millennium will be here. And a bill came along which on its own would have been vetoed by the Governor. But the Governor favored what I was trying to do but I had my bill locked up in committee. So I was able to attach my amendment to a bill that the Governor would have vetoed and people who would not help me pull my bill out of committee suddenly saw the value of giving me what I wanted in order that something they wanted would have a chance to survive. And my amendment was added. That bill was passed by the Legislature and the Governor signed it into law.

SENATOR COASH: One minute.

SENATOR CHAMBERS: That's the way I operated. They thought I was mean, that I was harsh, all of which is true. But there's method to my, what people might call or refer to as, madness. I'm going to vote for Senator Lautenbaugh's amendment. Ten days are enough under most circumstances for a committee to act on a bill. If the committee is

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snowed under with work, then if somebody makes one of these motions, let the committee make their argument at that time as to why at some future date this might be appropriate but at this particular moment in time it's not. And then you see where the chips fall. If 24 of them join you, you win. If fewer than 24 join you, you don't win. But if you make the motion to pull your bill and you don't get the 25, it's dead. Then it takes more votes to try to do something to resurrect it...

SENATOR COASH: Time, Senator.

SENATOR CHAMBERS: ...or to add it even as an amendment. Thank you, Mr. President.

SENATOR COASH: Thank you, Senator Chambers. Seeing no others wishing to speak, Senator Lautenbaugh, you're recognized to close on your amendment.

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I will be brief. I think this has been more fully discussed than I intended even. Again, if we're interested in standardizing these two periods and there's a value in that, as has been alleged, then this would standardized both of them at ten. I've listened to the debate on this. I just...I don't agree with some of the statements made. But, my friend, Senator Lathrop, we're not talking about a circumstance where someone is trying to pull the TEEOSA bill out of the Education Committee and it's this incredibly complex beast that nobody can understand. If that were the case it would fail on the floor. You still do get to vote on these things on the floor. It is not an automatic process. We are talking about, in the case of the example that we've been alluding to all day, a very simple measure that had been heard many times and debated many times previously. It still leaves the discretion with the body which I think is the right thing to do. I think ten days is ample in either circumstance. It was not my desire to open this debate, you'll recall, since this is an amendment to an amendment that we did not bring as the committee. But if we are going to standardize, I would urge us to standardize both at ten as this amendment to the amendment does, and I would request your support. Thank you.

SENATOR COASH: Thank you, Senator Lautenbaugh. Members, you've heard the closing to the amendment to the Mello amendment. The question for the body is, shall the Lautenbaugh amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Senator Lautenbaugh.

SENATOR LAUTENBAUGH: I'd request a call of the house.

SENATOR COASH: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

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CLERK: 36 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR COASH: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Larson, please check in. Senator Krist, please check in. Senator Conrad, please return to the Chamber and record your presence. Senator Lautenbaugh, all members are present. How would you like to proceed?

SENATOR LAUTENBAUGH: Roll call vote, regular order.

SENATOR COASH: Mr. Clerk, there has been a request for a roll call vote in regular order. Please read the roll.

CLERK: (Roll call vote taken, Legislative Journal pages 196-197.) 23 ayes, 21 nays, Mr. President, on the amendment to the amendment.

SENATOR COASH: The Lautenbaugh amendment is not adopted. Raise the call. We now return to discussion of the Mello amendment. Are there members wishing to speak? Seeing none, Senator Mello, you're recognized to close on your amendment.

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. This amendment would change (c) of Rule 3, Section 20, which now would read: Any amendment other than a committee amendment offered which is substantially the same as a pending bill shall require a three-fifths vote of the elected members if offered prior to the public hearing or within...the change I'm making is 10 to now 20 days after the public hearing. I can respect, as I mentioned earlier, reasonable people can have disagreements in regards to the rules of the Legislature. I think, however, providing that window of time...and Senator Chambers made, I think, an argument, while he voted for Senator Lautenbaugh's amendment, made an argument that even with this change a senator can still provide an amendment that's substantially the same as a bill they have in committee. It's simply moving a 25-vote requirement, majority vote, to a three-fifths requirement vote, to 30 votes. I think that is the substantial change that we're talking about here is that day 11 to day 20 window of requiring that additional threshold of vote which is exactly the same threshold of a bill that's currently in a committee. I completely understand and can sympathize with frustration of all members who have had bills stuck in committee who have been unable to get those bills out. I have been there every session I've been in the Legislature. And the reality is, the likelihood is I will have bills that will come to your committee this year that will probably not come out as well. That is understandable. That happens to every senator, every year, every session. That's nothing that...that's something every one of us experiences as individual members. But to change the rules and make it easier for us...or I should say this rule makes it more difficult for us to be able to offer these bills as amendments protects, I think, the integrity

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of the current existing process for committees to operate under. It may have been a "Mike Flood-ism" over the last four years of trying to encourage individual members in committees to find compromise on difficult legislation. I subscribe to that ism then because I think the reality is, is we know that very difficult legislation sometimes takes more time to work out compromise, to seek out solutions. And before a senator chooses to simply run their idea or their bill to another senator's bill, even against the wishes of that senator, I think we should make it more difficult for senators to do that. They can still do it; it simply means they have to have a 30-vote threshold instead of a 25-vote threshold under my amendment. If this doesn't get adopted, believe me, colleagues, it's not the end of the world for, I think, the operations of the Legislature and the committee process will not disintegrate. I just simply think this was a process we discussed two years ago. It came out of the Rules Committee then at 20 days and for one reason or another it got changed on the floor, for political compromise and accommodation, to move to 10 days. I think moving it back to 20 is something that we should do. It's something I supported when it came out. And I'd urge the body to consider that adoption with my amendment. Thank you, Mr. President.

SENATOR COASH: Thank you, Senator Mello. Members, you've heard the closing to Senator Mello's amendment. The question for the body is, shall Senator Mello's amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who wish? Senator Mello.

SENATOR MELLO: Could I get a call of the house and a roll call vote, Mr. President?

SENATOR COASH: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

CLERK: 38 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR COASH: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Bloomfield, please check in. Senators Krist and Kintner, please return to the Chamber and record your presence. Mr. Clerk, there has been a request for a roll call vote in regular order. Please read the roll.

CLERK: (Roll call vote taken, Legislative Journal page 197.) 23 ayes, 20 nays, Mr. President, on the amendment to the proposed rules.

SENATOR COASH: The Mello amendment is not adopted. Raise the call.

CLERK: Mr. President, at this time I have nothing further pending to the motion to adopt

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permanent rules.

SENATOR COASH: We return to debate on the adoption of the permanent rules. Senator Chambers, you are recognized.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, we have covered a lot of ground. And as Harry Belafonte said in one of his songs: It was clear as mud but it covered the ground and the confusion make me head go round. So I'm going to ask a question of Senator Lautenbaugh as Chairperson of the Rules Committee.

SENATOR COASH: Senator Lautenbaugh, will you yield?

SENATOR CHAMBERS: Senator Lautenbaugh, what precisely remains before us when we take this vote?

SENATOR LAUTENBAUGH: We are just approving the rules that we operated under last session as amended today for the balance of this session.

SENATOR CHAMBERS: And that which was amended is the language that says: prior to the public hearing or ten days or within ten days after the public hearing. That's the only change?

SENATOR LAUTENBAUGH: We already passed that, yes. This was...

SENATOR CHAMBERS: And that would be the...that's the only thing that would be different from the existing rule?

SENATOR LAUTENBAUGH: Actually, that amendment already passed. The Mello amendment was a standalone amendment that failed, so we're just voting now on adopting the permanent rules in toto that...everything else has been approved.

SENATOR CHAMBERS: I see. Thank you. Members of the Legislature, I'm going to vote against this motion. It's not that I don't think we need rules or, to put it a different way, it's not that I think we don't need rules. But from the discussions that have gone on so far, you can see that a rule is what whoever in the chair may say that it is. If you were going to change the rules, my suggestion would be that when any issue relative to an interpretation of the rules is before us and the Chair has to make a ruling, the Speaker should be in the Chair and that will give us a degree of consistency perhaps. But that is not going to be considered and maybe, ultimately, it wouldn't make any difference. One of the problems with term limits is that you get new people in here who don't know the way things have been done. And I'm not saying that in the sense of those people who say: Something has been done a long time, that makes it correct. That's not it at all. But

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you develop an understanding of what facilitates the flow of legislative proceedings. People think that I'm the greatest obstructionist. But if anybody had been here any length of time, it would quickly become clear that on matters of import and those that relate to the integrity of the system of the Legislature as an institution, I am the greatest facilitator. But people have a range of vision which is too nearsighted and too narrow to see that. And I'm aware that my method irritates people. And if I ask for a show of hands of how many think that my general, overall method of proceeding is irritating, I'd be swamped by...or within a force of hands. And you know what I would be thinking inside? You made my day. I have been a success. When you are in a body comprising people...

SENATOR COASH: One minute.

SENATOR CHAMBERS: ...like we have here, you're going to be on the outs more than you're on the in because a lot of things that come to us are brought by senators accommodating somebody on the outside and because of this senators cannot explain the bills they ask us to vote for. They would say if they're honest: I don't know what it means but there's them out in the lobby who knows. And that's just the way they'd express it. So I'm not going to vote for these rules.

SENATOR COASH: Senator Chambers, you're recognized.

SENATOR CHAMBERS: Thank you, Mr. President. This morning, did we adopt temporary rules, Mr. Chairman?

SENATOR COASH: No, Senator, we adopted those the first day of the session.

SENATOR CHAMBERS: So we don't have any rules we've adopted that we're working under, even temporary rules, do we? Mr. Chairman, what rules are we governed by?

SENATOR COASH: We are operating under the temporary rules we adopted on the first day of the session which are a carryover from the rules from last session.

SENATOR CHAMBERS: Is that the way it's always been or do we adopt temporary rules each day?

SENATOR COASH: It's been this way for about 15 years, Senator Chambers.

SENATOR CHAMBERS: So I still have only three opportunities to speak. Is that true?

SENATOR COASH: Yes, Senator Chambers.

SENATOR CHAMBERS: But since the permanent rules are before us, I could offer a motion to amend any rule that I choose at this time. Is that correct or is that incorrect?

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SENATOR COASH: It's correct, Senator.

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, cloture cannot be invoked on a discussion of the rules. Cloture involves bills. So I can keep you here the rest of the session if I want to on the rules, if I want to, but I don't want to. There are things that I want. And when I irritate you, I want you to be irritated on the merits, not that you're just irritated with me because I'm Ernie, although that's quite an achievement, if I think about it. To get this many disparate, and some people say dis'purit (phonetically), people to agree on one thing is really something. And maybe I'll be like Germany on a couple of occasions--unite all of Europe against me. That's how they all can come together. I have enough clout to unite everybody, get them to bury their differences to come against poor, poor, pitiful me. And I would smile the whole time. There have been times when groups outside of the Legislature, one Catholic group, a group of nuts in New York, wanted the Legislature to censure me. And if I were a man of prayer and thought that prayer did any good, I would have prayed that the Legislature would fall into that trap. But they were too smart, because people on the outside told them, don't do that, he'd love it. So they said, "Then, by God, we're not a gonna do it; don't give him what he wants." Are people of a mind, when they vote for these rules, to work within the rules? Those who want to protect the committee structure, does it carry over to protecting the integrity of the rules? If you adopt these rules, they're the ones you're agreeing to work under,...

SENATOR COASH: One minute.

SENATOR CHAMBERS: ...so we will have no motions to suspend the rules? Or might it become necessary on occasion, in order to facilitate the legislative process and get things done when they need to be done because of time constraints, we will suspend a rule because form is not as important as substance? And the substance is such that it justifies, without a second thought, suspending a rule which is formalistic but not substantive, in terms of facilitating what we must do as a Legislature. You all will have to find occasions when you suspend the rules. And if it's one of those instances where I'm convinced that such a thing is necessary, I will vote with you. The fact that I say something forcefully does not bind me forever, because I'm not...

SENATOR COASH: Time, Senator.

SENATOR CHAMBERS: ...the slave to anything or anybody. Is that my time?

SENATOR COASH: Time.

SENATOR CHAMBERS: I have one more time?

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SENATOR COASH: Senator Chambers, you're recognized.

SENATOR CHAMBERS: Thank you. If I were the slave to an ideology, that's worse, to me, than being a slave to another human being, because I can find a way to escape an individual. If I allow an ideology to lock up my mind, then wherever I go that goes with me. I cannot escape it. It's why it doesn't do some people any good to go on a vacation, because they take themselves with themselves, and that's what they're trying to get away from. So when we have these small lulls, I will take the opportunity to say some things that I think need to be said because of the nature of what we're discussing. I don't know that anybody will speak on behalf of adopting the rules. It's a foregone conclusion that they must be adopted. But that's not true. You have now added something to the temporary rules. The temporary rules stay in effect, apparently, until we make them permanent. If we don't vote to make them permanent, they still have as much effect and impact as if they were temporary. So why do you even need this vote? This is not my Legislature; this is white people's Legislature. You all set it up like this. You do things that are not necessary to be done because you like form, you like habit, wasting time, wasting vote. I'm not wasting time. I'm trying to get you to see how much time is wasted by the processes that you all have that I must work under, even though I think they're foolish and unnecessary. But when I agreed to let people in my community vote to send me down here, they sent me down here to participate in what's going on. But they didn't send me down here to be a fool, which means that I am to inform myself, act in accord with my best judgment. And my best judgment told me that I should say precisely the things that I've said thus far and the few things I'll say in the remaining seconds that I may have to speak. When somebody makes a motion to suspend the rules, maybe I'll comment about it; maybe I won't. But you have the opportunity to join me today. Don't vote for these rules. That will not take them out of commission. That will not change anything about them. Everything in the Rule Book will still be what's guiding you, what's controlling you. So why do you need to take this vote? Because you have to. Why do you have to? Because you've always done it. Why have you always done it? Because you've always done it. Well, why did you do it in the first place? Because--and that's the answer to all things. When somebody asks you a question, just say, "Because." And who can argue with it? Who can argue against it? I'd like to ask Senator Kolowski a question.

SENATOR COASH: Senator Kolowski, will you yield?

SENATOR KOLOWSKI: Yes, I do.

SENATOR CHAMBERS: Senator Kolowski, is this still a part of your first term?

SENATOR KOLOWSKI: Yes, sir.

SENATOR CHAMBERS: Have you enjoyed the first two years that you were here?

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SENATOR KOLOWSKI: Immeasurably, yes.

SENATOR CHAMBERS: Are you enjoying immeasurably, or can you measure it, the time you spent here on this year, the third, the beginning of the third year of your term?

SENATOR KOLOWSKI: Yes.

SENATOR CHAMBERS: You're enjoying it immeasurably.

SENATOR KOLOWSKI: Absolutely.

SENATOR CHAMBERS: Senator Kolowski, you're such a gentleman, I'm going to be collegial and end my remarks right there.

SENATOR KOLOWSKI: Thank you.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR COASH: Thank you, Senator Chambers and Senator Kolowski. Senator Schumacher, you're recognized.

SENATOR SCHUMACHER: Thank you, Mr. Chairman, members of the body. Last night there was a television show on that I think I caught part of--I was almost asleep--and the kids on the television show had terrific memories. They could remember absolutely everything and what they felt, and they really relived it. It was not only kids but it was older people. And I'm sitting here wishing I had that memory because I think we've stumbled across an interesting procedural phenomena here. What would it take to check the record? Because I think Senator Adams, when he made the motion on the rules the first day, said the temporary rules would expire at the end of the day, and that's the motion we passed. And if that's the case, then we have a different playing field here today, because we have no rules. Could we check that motion? I very well might be mistaken, but if I were pinned to swear to it, I would have said that was the wording of the motion. I found it odd at the time that it was not until we adopted rules that the wording was "until the end of the day."

SENATOR COASH: Senator Schumacher, the Clerk is looking for that record. We're going to give him some time to do that.

SENATOR SCHUMACHER: Okay. I understand.

SENATOR COASH: You may continue on your time.

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SENATOR SCHUMACHER: I have nothing else but that question, because if that...if my memory is incorrect, then it's a moot point. But if it is correct, then I think it underscores some things that we've observed in the last few years and underscores some things with the nature of the way the body deliberates.

SENATOR COASH: Senator Schumacher, the Chair will now recognize the Clerk.

SENATOR SCHUMACHER: Okay.

CLERK: Senator, if you'd look in your Legislative Journal, page 74, you'd see the motion which reads: Senator Adams moved "the rules, as now in our possession, be adopted until such time as the permanent rules are adopted pursuant to Rule 2, Section 1; provided that the temporary rules shall not continue after the tenth legislative day."

SENATOR SCHUMACHER: Okay. Then I should have been a kid on that show and I would have flunked the test there. Thank you.

SENATOR COASH: Thank you, Senator Schumacher. Seeing no other members wishing to speak, Senator Lautenbaugh, you are recognized to close on the motion to adopt the permanent rules, as amended.

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. This did go on a bit, compared to years gone by. And as much as it pains me to disagree with Senator Chambers, I think we do need to adopt the permanent rules, and should. I didn't find him particularly irritating today, but if he needs some lessons on charm and how to influence his colleagues, I'll be happy to discuss off the mike with him later such things. And these rules aren't the best of all possible worlds. That much is certain. I had an elaborate system I was going to propose where we rank bills based upon the height and weight of the introducer, but I really could never get that off the ground. Rick is intrigued, but nobody else seems to have any interest whatsoever. So with that said, I will just urge you to adopt the permanent rules. Thank you, Mr. President.

SENATOR COASH: Thank you, Senator Lautenbaugh. Members, you've heard the closing to the motion to adopt the permanent rules, as amended. The question is, shall the rules, as amended, be adopted? All those in favor vote aye; all those opposed vote nay. A record vote has been requested, Mr. Clerk. Have all voted who wish? Record, Mr. Clerk.

CLERK: (Record vote read, Legislative Journal page 198.) 38 ayes, 1 nay, Mr. President, on the motion to adopt permanent rules.

SENATOR COASH: The permanent rules, as amended, are adopted. Mr. Clerk, you have some items?

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CLERK: I have new bills, Mr. President. (Read LB850-860 by title for the first time.) That's all that I have, Mr. President. (Legislative Journal pages 198-200.) [LB850 LB851 LB852 LB853 LB854 LB855 LB856 LB857 LB858 LB859 LB860]

SENATOR COASH: Thank you, Mr. Clerk. We'll now return to the agenda, General File, LB174. Mr. Clerk. [LB174]

CLERK: LB174 is a bill by Senator Mello relating to the Nebraska Rules of the Road. (Read title.) Bill was introduced on January 14 of last year, referred to the Transportation, Telecommunications Committee. The bill was advanced to General File. I have no amendments to the bill at this time, Mr. President. [LB174]

SENATOR COASH: Thank you, Mr. Clerk. Senator Mello, you're recognized to open on LB174. [LB174]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. LB174 is legislation devised to address an ongoing problem in my legislative district--manure spills by trucks carrying cattle and other livestock to various meat packing facilities in south Omaha. These spills have a tendency to cause traffic accidents on the off-ramps of Highway 75, better known as the Kennedy Freeway, at the L Street and Q Street intersections, and have recently become more frequent on the West Dodge Expressway in the western part of Omaha. Over a 14-month period, from August 2009 to October 2010, there were 42 documented manure spills on roadways in the south Omaha area, and more recently there were 25 documented spills in the last six months of 2012. The South Omaha Environmental Task Force, an organization that seeks to address environmental concerns surrounding the south Omaha meat packing plants and industrial corridor, has been working for more than 30 years with the private sector, neighborhood associations, and local elected officials to address health and environmental concerns associated with heavy industry in the area. Industry groups have partnered with SOETF on these efforts to include the Nebraska Trucking Association, the Nebraska Cattlemen's Association, and the various meat packing companies in the south Omaha area. The South Omaha Environmental Task Force and their partner associations have been working to address the problem of manure spills for much of the last decade. While these manure spills fall under the existing load spillage statute at 60-6,304, violations of this statute currently result in the offending drivers receiving the minimum fine of \$100. By contrast, if the same spill were to take place on the premises of the meat packing facilities, those private businesses assess a fine of \$500. In fact, as the Nebraska Trucking Association testified at the hearing on LB174, the current fine level is less than the costs of a truck wash, actually resulting in an incentive for truckers to spill manure on Nebraska roads instead of washing out their full vehicles. LB174 would amend the existing load spillage statute to provide a separate subsection that applies only to manure spills which take place within the boundaries of a

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city of the metropolitan class. A violation under this new subsection would still be a Class IV misdemeanor, but would carry a mandatory minimum penalty of \$250. While this is a fairly modest increase that doesn't bring the current fine levels in line with those levied by private businesses, it is my hope and the hope of the south Omaha area businesses that an increase in the level of fines will serve as a deterrent for the few bad actors with whom education and ongoing advocacy by the South Omaha Environmental Task Force has been ineffective. As some of the body may recall, I introduced a similar effort in 2012. Following the hearing on the original bill, my office worked extensively with the Nebraska Trucking Association, the Nebraska Cattlemen's Association, and the Nebraska Farm Bureau to significantly narrow the scope of that bill, ultimately leading to the language that is before you in LB174. As written, this language will have minimal, if any, impact on the agriculture producers and keeps the focus on the problem drivers who spill manure on the portions of our state highway system which pass through the Omaha area. The reason that LB174 is necessary, rather than having the city of Omaha address this issue at the local level, is fairly complex. The overwhelming majority of manure spills are taking place on state highways: the Kennedy Freeway, which is Highway 75; L Street, which is Highway 275; and the West Dodge Expressway, which is Highway 6. In addition, the primary law enforcement agency which issue tickets for these violations is the Nebraska State Patrol, meaning that even if city ordinances were amended to provide for an increased fine, drivers would still be ticketed by the State Patrol, under state statute, and not under city of Omaha ordinance. Without the change in LB174, the problem drivers who spill manure in south Omaha on a regular basis will continue to take advantage of the low state fine amount. LB174 received no opposition at the testimony at the hearing and was advanced by the committee with a 6-0 vote. I'd urge the body to advance LB174 to Select File. Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Mello. Members, you've heard the opening to LB174. Floor is now open for debate. Those senators wishing to speak: Senators Nordquist, Dubas, Chambers, Schumacher, and others. Senator Nordquist, you are recognized. [LB174]

SENATOR NORDQUIST: Thank you, Mr. President. I'm going to keep my remarks brief. Senator Mello certainly identified the problem that we've heard about for several years at neighborhood association meetings, business association meetings in the south Omaha area. And I want to commend Senator Mello for taking this issue on and working with the industry that this fine applies to. As you can see from your committee statement, the Trucking Association came in support of this fee increase. It is an agreement that they came to after a lot of discussion, and I think that's an approach we need to take. And I think Senator Mello deserves a lot of credit for bringing this issue forward. Thank you. [LB174]

SENATOR COASH: Thank you, Senator Nordquist. Senator Dubas, you're recognized. [LB174]

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SENATOR DUBAS: Thank you, Mr. President. I would just like to emphasize how hard Senator Mello worked with the interested stakeholders on this issue. As he stated, he had brought this bill several years ago and took all of those concerns and objections into consideration as he reintroduced LB174, as I said, working with all the stakeholders, really tried to make this something that everybody had a level of comfort with as he brought it forward, took all those concerns into consideration. And as Senator Nordquist just mentioned that the Nebraska Trucking Association came in and testified in support of this bill. By and large, the vast majority of our truckers are responsible. They take care of their trucks. They take a great deal of pride in the work that they do and don't appreciate those few bad actors who are giving the whole industry a black eye. And so that was why they were willing to come in and work with Senator Mello and work on this bill and be able to testify in support. So I hope that the full body will recognize the considerations that were put into this bill and give it your support. Thank you. [LB174]

SENATOR COASH: Thank you, Senator Dubas. Senator Chambers, you're recognized. [LB174]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask Senator Mello whatever questions I need to ask him in order to get to what I want to get to. [LB174]

SENATOR COASH: Senator Mello, will you yield? [LB174]

SENATOR MELLO: Of course. [LB174]

SENATOR CHAMBERS: Senator Mello, this subject that we're dealing with poses a health hazard to people in south Omaha. We're not just talking about aesthetics and whether one aroma is more obnoxious than another. Is that true? [LB174]

SENATOR MELLO: That is true. [LB174]

SENATOR CHAMBERS: Do you deem the public health to be a matter legitimately within our province as a Legislature? [LB174]

SENATOR MELLO: Yes. [LB174]

SENATOR CHAMBERS: When we are going to enact legislation that relates directly to the public health, should we do it in a token way which is not going to have any significant impact, or a substantive way which is likely to remove or correct the threat to public health that we are trying to address? [LB174]

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SENATOR MELLO: I think, Senator Chambers, I would normally try to address it in the most complete, comprehensive way we can. In some circumstances, that's not feasible or the Legislature is unable to do that, which in other circumstances I think moving an issue forward to get some progress on it is warranted. [LB174]

SENATOR CHAMBERS: Senator Mello, can these trucks be modified in such a way that manure and/or urine will not be spilled when the cattle are not present, livestock? [LB174]

SENATOR MELLO: Actually, Senator Chambers, over the last 20 years, truck designs actually have increased or improved dramatically from when they used to be, where now trucks are designed where they're able to keep, assuming that the truck is...the trap of the semi is up and it's in place accurately, that it's able to keep most of the contents--manure and urine, otherwise--inside the truck unless it's so full that it comes out of the other crevices of the truck afterwards. [LB174]

SENATOR CHAMBERS: And if it is overly full, that is not the responsibility or doing of the citizens whose health might be affected if such a circumstance arises and these spills occur. That responsibility is on the one driving the truck or the ones who hired that person to drive the truck. In other words, the source of that problem is not with the people who live in the community. Is that correct? [LB174]

SENATOR MELLO: That is correct. It is with the truckdriver. [LB174]

SENATOR CHAMBERS: You mentioned something about washing their trucks. That's another way to prevent this from happening. Is that true or is that false? [LB174]

SENATOR MELLO: That is true. [LB174]

SENATOR CHAMBERS: Senator Mello, the way the bill is drafted, if there are critters in the truck, they can spill as much manure or urine as they choose and they will not be affected by this bill. Isn't that true? [LB174]

SENATOR MELLO: I wouldn't say they'd be able to spill as much as they'd like. They would still be fined. But with livestock inside of the truck, the likelihood--and this is a conversation that has been had for a number of years--the propensity of manure to spill outside of a truck is very minimal when there's a considerable number of livestock in it. It's only usually when the truck is empty, with no livestock in it, where all that is left is manure and feces, that the ability for that manure and urine to come out of the truck is much easier. [LB174]

SENATOR CHAMBERS: You raise an issue that puzzles me. What's the difference between manure and feces, because you said "or"? [LB174]

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SENATOR MELLO: I probably should have used the word "manure" instead. It's probably a more...feces is probably a more human attribute, I would say, in regards to dealing with by-products. But let's stick with "manure." [LB174]

SENATOR CHAMBERS: Okay. Now this fine is \$250 under the bill. [LB174]

SENATOR MELLO: Correct. [LB174]

SENATOR CHAMBERS: There were automobile manufacturers... [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR CHAMBERS: ...who knew that their cars had defects, and they said it's cheaper to let them take us to court and pay judgments rather than correct the defect. Do you genuinely believe this miniscule fine is going to be a deterrent? [LB174]

SENATOR MELLO: I believe, Senator Chambers, it's a deterrent in the sense that it costs more for the fine than it does to take your truck through a car wash, which was one of the essential general compromises that all the interested parties realized and came to the conclusion that, with such a low fine, it's more of an incentive for a truckdriver to spill manure instead of spending the money necessary to go clean out their truck before they leave the Omaha area. [LB174]

SENATOR CHAMBERS: I will speak again. I won't go beyond the time allotted to me, since we're operating under the permanent rules now. [LB174]

SENATOR COASH: Thank you, Senator Chambers and Senator Mello. Mr. Clerk, you have an amendment. [LB174]

CLERK: Mr. President, Senator Chambers would move to amend with FA159. (Legislative Journal page 201.) [LB174]

SENATOR COASH: Senator Chambers, you are recognized to open on your floor amendment. [LB174]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, pursuant to the permanent rules which we've adopted, I'm offering the following amendment. And it's probably on your gadgets but in case it's not, and I want it a matter of record, on page 3, in line 14, I would strike the word "two" and substitute the word "five." That's the amendment that I'm offering. The minimum fine would be \$550. I'd like to ask Senator Mello a question or two. [LB174]

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SENATOR COASH: Senator Mello, will you yield? [LB174]

SENATOR MELLO: Yes. [LB174]

SENATOR CHAMBERS: Senator Mello, these spills are avoidable. Is that true or false? [LB174]

SENATOR MELLO: I would say that's true. [LB174]

SENATOR CHAMBERS: If they are not avoided, it's because the one who's in a position to avoid them chooses not to do so, for whatever reason. Is that true or false? [LB174]

SENATOR MELLO: I would say that also is true. [LB174]

SENATOR CHAMBERS: If a fine is designed to be a deterrent with reference to one thing and an incentive to do something else, the greater the fine the more deterrent on the one hand, and the correlative is the greater incentive on the other. The deterrent would relate to not having these spills occur in the first place. The incentive would be to take whatever affirmative action is necessary to prevent these spills. Do you agree with what I've said so far? [LB174]

SENATOR MELLO: Generally, yes. [LB174]

SENATOR CHAMBERS: When you say "generally," that means particularly you may not. What in particular do you disagree with? [LB174]

SENATOR MELLO: I would say in some circumstances it may be an unknown or, I would say, an unintended incentive, so to speak, as I would say our current statute right now provides an unintended incentive, in part because car washes have been more, I would say, been...or truck washes have been more created in the south Omaha area over the recent decade, where prior to there was very minimal availability and access to those. So of now, I would say this was maybe a deterrent at one point in time, but now it's become the low fine has been more of an incentive, in part because the ability for a truckdriver to wash one's truck after dropping off a load of cattle is slightly more than the \$100 fine. [LB174]

SENATOR CHAMBERS: Senator Mello, there are signs in some public rest rooms which says employees are to wash their hands before leaving the rest room. Have you see signs of that type? [LB174]

SENATOR MELLO: I have. [LB174]

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SENATOR CHAMBERS: It doesn't mention any penalty if they don't. Is that correct?
[LB174]

SENATOR MELLO: I've not seen a penalty or a reference to a state statute in regards to a penalty on those signs, no. [LB174]

SENATOR CHAMBERS: Nor have I, and I'm speaking now in terms of what the operator of the restaurant or eating establishment would put up there. That's all I'll ask you. Oh, here's what I have to ask you. Do you agree with the amendment or do you oppose it? [LB174]

SENATOR MELLO: I was going to speak on my own time, Senator Chambers. [LB174]

SENATOR CHAMBERS: Okay. That's fine, because I don't...I want you to be able to put it in the context you want to and go from there. I'm going to explain why I want it. I've been contacted by people in south Omaha and it's in line with the kind of things that I've said this morning. And the first thing out of their mouth is, this wouldn't happen in west Omaha, and they don't mean just because they don't have livestock trucks going through there or packing houses. They mean that where the white people with money live a lot of things don't happen. East of 72nd Street, when a lot of snow has fallen, you cannot park your car on one side or the other, depending on whether the day of the week is odd or even by the calendar. If you park it on the wrong side, they can tow it. And they always say east of 72nd Street, where all of the undesirables live, such as myself. West of 72nd Street, where the desirable people such as Senator Kolowski live, can park their car anywhere they want to, on either side of the street, because those people's interests are taken into consideration when policies are put in place. We are deemed to be the manure of the society, and it's my job, to the extent that I can do anything about it, is to prevent that from happening. There would not have been these continuing spills, some of them in neighborhoods where people live. They have little children. They care for their children like you care for yours. And I know it's hard for you to accept that. It's difficult for you to believe that I, as a black man, could want for my children what you say you want for yours. It's difficult. You'll just have to take my word for it. Treat people the way you'd want your mother and your father treated if they were in a position where what happens to them is in the hands of an unfeeling, unyielding, disregardful group of people who will do things that hurt their interests because they know these two people are...these people are too frail, too feeble, too powerless, too voiceless to do anything about it. You're not going to bust any of these people if you put a \$550 fine on them. They can easily prevent this from happening. You're not saying what you ought to be saying: shackle them and drop them in a vat of this stuff that they're spilling in other people's neighborhood. You're not saying that. You're saying to them, do what you ought to do, be a good citizen, be a responsible citizen, be a good neighbor, do what Jesus told you: As you would that people do unto...should do unto you, do ye even so unto them likewise. Who in here wants manure spilled in their street

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in their neighborhood? Not one. This fine will probably be discussed in terms of what a burden that's going to be placed on these manure and urine spillers. It's too much to ask of them to prevent this from happening. I don't think a \$550 fine is enough. I think their license should be suspended for a year. If you're trying to do something, do it. I am the one who would argue most vociferously against requiring a person to do that which is impossible, then punishing him or her if he or she cannot do it. But when this is not only possible, not only feasible, not only desirable but it should be a moral imperative, we're going to say, oh, my heart bleeds so much for these manure and urine spillers that a \$550 fine is too much. I can drive a certain rate of speed on the highway and actually endanger nobody. I can see a stretch of highway in Nebraska stretching so far from where I am that I can see the curvature of the earth, but can drive fast enough on that highway, under certain circumstances, to pay a fine more than what I'm saying should be done here, and I'm not menacing anybody. I am not going to be sympathetic to Senator Mello when he tries to show that this is too heavy a burden to bear for these people who sometimes actually careen down these streets, and they drive in such a way you can expect this stuff to splash out. The law imposes liability where there's an expectation. There can be an expectation on the part of the actor that somebody is going to be harmed. When that expectation is there and the harm results, the actor is held liable and cannot say: I didn't know... [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR CHAMBERS: ...it would happen; I didn't want it to happen. Well, anybody looking at the circumstances can expect this to happen. You place this act, it happened, you're liable. But I want to hear Senator Mello sing his song of woe for these urine and manure spillers who foul the streets even of neighborhoods, and I would like to see if he can stand up here and say that I'm not correct, that these spills don't in fact occur in neighborhoods. But even if they don't, they occur where other people drive, where other human beings are, and nobody can deny that it is a health hazard. Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Chambers. Members, you've heard the opening to FA159. Floor is now open for debate. Senator Schumacher, you're recognized. [LB174]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I pushed my button before Senator Chambers' amendment and, consequently, my remarks are prepared more toward the main bill. Back in about 1979-80, somewhere in that area, we had a Criminal Code which was not very uniform and it had all kinds of laws in it. And the Legislature sat down and nitpicked what it thought would be a penalty for that particular law. That got to be very complex; it got to be very nonuniform. Lawyers and perhaps even judges were confused about what penalty applied to what, and a uniform piece of legislation was adopted, which in the case of misdemeanors, those crimes for

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which you cannot go to the pen, it was very simple. A Class I was a maximum of a year, minimum nothing; Class II was a maximum of six months or \$1,000 fine or both, minimum nothing; Class III misdemeanor was three months, \$500 or both, minimum nothing; Class IIIA, seven days in jail, a \$500 fine or both, minimum nothing; Class IV, maximum no imprisonment, \$500 fine, minimum \$100 fine; Class V was maximum no imprisonment, \$100 fine, minimum none. And since then, they added a Class W which I think must mean woopy, because it deals with DWI laws. But it was a very simple process and the judges had discretion. And when the judge has discretion, he can do anything within that range. What we are doing fundamentally with this bill, or it attempts to do and I don't think it gets the job done, is say that for trucks that are going through Omaha that are spilling manure on the streets, we want a \$250 or \$200...yeah, \$250 fine to a \$500 fine, because it's a still a Class IV. That's what we want done. That's already in the hands of the judges. If the judges wanted to set the waiver amount on these type of cases, they could easily say it's a \$500 fine or come explain to the judge why it should be less. So we are now deciding we're going to play judges in the context of this. This is within the power of the judiciary, the range of the judiciary, and what we're doing is breaking authority in a nice cubbyhole pattern that the statute applies. If we wanted to make it harsher, then what we should do is take it up to a Class III misdemeanor or a Class II misdemeanor, not try to make subcategories in what otherwise is an orderly system. Senator Mello, would you answer a question, please? [LB174]

SENATOR COASH: Senator Mello, will you yield? [LB174]

SENATOR MELLO: Yes, I would. [LB174]

SENATOR SCHUMACHER: Senator Mello, am I correct in understanding that what you're trying to get is the spills that occur in Omaha? [LB174]

SENATOR MELLO: Correct. [LB174]

SENATOR SCHUMACHER: Okay. Then in the...on page 3, line 8: No person operating any vehicle that contained livestock--then there's something between the comma that's inapplicable here--on any highway located within the corporate limits of a city of the metro class, shall spill manure. So if I drove a truck through Omaha, it contained livestock, then it would seem that this law applies to me even though I might be in Broken Bow. [LB174]

SENATOR MELLO: If you spill manure while in the city of Omaha, yes, and it meets that definition, you would qualify for it whether or not you're... [LB174]

SENATOR SCHUMACHER: But, Senator, that's not what this says. This says no person operating a vehicle that contained livestock on any highway located within the

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corporate limits of Omaha shall spill manure, so... [LB174]

SENATOR MELLO: But I think the question, Senator Schumacher, is, but still contains the manure and urine of livestock. [LB174]

SENATOR SCHUMACHER: How could it spill it if it never contained any urine or manure? It doesn't say. [LB174]

SENATOR MELLO: It says "but still contains" though, so I guess I'm not understanding your question. It says that it has to contain it. [LB174]

SENATOR SCHUMACHER: It could still contain, Senator, it could still contain manure or urine in Broken Bow, but it once... [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR SCHUMACHER: ...contained livestock and manure or urine in Omaha. I think we've got a language problem that needs to be addressed there, otherwise, this may be applicable, certainly in a literal reading would remain applicable in...outside of the city of Omaha. Then in the two other provisions that you're dealing with: Except as provided in subsection (2), for a vehicle that once upon a time contained livestock, no vehicle shall be driven on a highway unless the vehicle is constructed to prevent it dripping. [LB174]

SENATOR COASH: Time, Senators. [LB174]

SENATOR SCHUMACHER: Thank you. [LB174]

SENATOR COASH: Thank you, Senator Schumacher and Senator Mello. Senator Johnson, you're recognized. [LB174]

SENATOR JOHNSON: Thank you, Mr. Chairman. Most of my questions have been discussed and probably answered. I do have a question for Senator Mello, if he will yield. [LB174]

SENATOR COASH: Senator Mello, will you yield? [LB174]

SENATOR MELLO: Yes. [LB174]

SENATOR JOHNSON: You made the comment. One of my questions was, how many violations has there been statewide, and you're just talking about metro, I realize, and how many within metro Omaha? And I think you made a comment that I believe it was 42 have been documented. Can you explain what you mean by "documented"? [LB174]

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SENATOR MELLO: That's a great question, Senator Johnson, and I'll do my best. The documentation that we have is documentation that comes from with the city of Omaha in regards to manure spills. As we looked at language and this policy over the last couple years, we've come to find out the State Patrol does not track specifically manure spills when they issue tickets. They simply track any kind of spill, and it's under a very broad category. So when we looked at some...tried to get data from the State Patrol, they even acknowledged that giving us that data does not break down in regards to whether or not it's a load spillage from manure and/or a spill from some other kind of truck carrying any other kind of material. So the best we have to operate from is the city of Omaha, which does track specific manure spills. [LB174]

SENATOR JOHNSON: Thank you. That answered part of it. Can you also identify whether these spills, was there a violation cited or was it just documented? [LB174]

SENATOR MELLO: Part of the challenge of the city of Omaha, they do have documentation of spills that have been cited by the Omaha police. The nature normally of the way we have dealt with this issue, at least the six years I've now been in the Legislature, is a majority of the spills are reported after the fact. And so there are actually, unfortunately, very few tickets both within the city of Omaha and the State Patrol that actually get written, because the spill happens before State Patrol from the Carrier Enforcement Unit actually is there, sitting in south Omaha to document and to be able to issue a citation. I can get you specifically the number of citations the city of Omaha has given over a period of time. I'll simply have to get that documentation from the city. [LB174]

SENATOR JOHNSON: All right. Thank you. The other question I have which I think has been pretty well discussed, and that's the spill from, let's say, manure that was in the truck when it entered metro Omaha or I'll just call it newly discharged manure after it got into Omaha, but both are affected. So my next part of it would deal with Senator Chambers' amendment where we replace \$250 with \$550, and that would be the minimum. Will this...it will definitely create more of a deterrent and hopefully have these truckdrivers clean their trucks better. Is there any way that it can be improved enforcementwise by additional dollars? In other words, raising that, will that create that the city of Omaha could put more people down there at certain times? [LB174]

SENATOR MELLO: Well, I think, Senator Johnson, the issue we're addressing here is the state statute regarding manure spills, where the city of Omaha and the City of Omaha Police Department issues their own citations. And as Senator Chambers mentioned, there is a considerable number of spills that occur within neighborhoods that fall outside of state highways, such as Highway 75 or Highway 275. And so city of Omaha and their Police Department do issue citations when there are spills outside of state highways, but the State Patrol has jurisdiction over state highways, so they are the

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entity that's writing the citation. And I think the issue of whether or not the fine dollar amount, I will explain it a little bit more on my time, not to utilize yours, in regards to how we came up with the \$250 fine amount... [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR MELLO: ...in comparison to where it's currently at, at \$100. [LB174]

SENATOR JOHNSON: That answers my questions. Thank you for your time. [LB174]

SENATOR COASH: Thank you, Senator Johnson and Senator Mello. Senator Hansen, you're recognized. [LB174]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I looked back at the transcripts of the Transportation, Telecommunications Committee hearing of this bill and there was some telling things in there, I thought. In Senator Mello's opening, he said that there was about 42 spills over a 14-month period, which is about 420 days, or 1 every 10 days, which would probably be an estimate, I'm sure. The South Omaha Environmental Task Force, which included several groups, an organization that seeks to address environmental concerns surrounding the south Omaha meat packing plants and industrial corridor. This...and then it goes on in Senator Mello's opening about the \$500 if manure is spilled on private property at the packing house, is a \$500 fine, but he indicated that it would be an incentive for truckers to spill manure on Nebraska roads. I don't think there's any trucker in the state of Nebraska would do...would use that as an incentive to spill manure on the roads. I think part of the problem is that there's no language in here about intentional spillage or accidental spillage. If there is any intentional spilling, those people need to be prosecuted to the fullest extent of the law. Those that are accidentally spilled, by definition would be an accident. Senator Chambers' idea of raising the fine is a little bit tough on folks, on truckers, and truckers are usually small business owners that have one or two or three trucks or ten trucks. It doesn't matter. But they're small operators in the life of truckers on the road. Duane Brooks, who spoke on behalf of the South Omaha Environmental Task Force, said that there's about 100 trucks a day come into Omaha. If the truck is limited to 50,000 pounds gross weight...not gross weight. The gross weight is 80,000, but the payload would be about 50,000. If the cattle weighed 1,400 pounds, it would be about 3,600 head per day, or if they were lighter it would be up to 4,000 head per day, which is...and that's divided at least into two packing houses. And we can't figure out...I can't figure out anyway, there's a cow plant in Omaha, and I'm not sure what the numbers are there. I think part of the problem, too, is that the South Omaha Environmental Task Force is taking this a couple of steps beyond where it really needs to go. And he, Mr. Brooks, says that: We are business leaders from the packing industry, the government, residents of south Omaha, formed to mitigate problems associated with the packing business--problems such as rodents, strong odors, manure spills on the street, and manure spills on the

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streets are what brought us together. And these problems need to be stopped. They have a negative impact on our community and on the image of our city. Yet, despite our combined efforts, they still remain a daily occurrence. Well, 42 out of...over a period of 420 days is certainly not a daily occurrence, or a lot of them are not getting documented. I don't think that the people in south Omaha... [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR HANSEN: Pardon me? [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR HANSEN: Thank you. I don't think the people in south Omaha or the people of the state of Nebraska really intend to shut these packing houses down because of spillage of manure. But if you--Senator Chambers' bill...amendment, rather--raise this to \$550, plus they have to go get their truck cleaned out after they get the fine, it's going to be a \$655 cost every time they take a load to...every time they take a load that's documented as an accidental spill. What that's going to do is those truckers aren't going to go back to Omaha, plain and simple. If this is a bill to do away with the packing industry in south Omaha, in the city of Omaha, I think that ought to be made a little more clear. Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Hansen. Senator Brasch, you're recognized. [LB174]

SENATOR BRASCH: Thank you, Mr. Speaker and colleagues. I serve on the Transportation Committee and I do recall this hearing and there were several questions asked during this time. One of the problems with this was the availability for locations where people hauling cattle and livestock can dump their spillage, and that is a problem across the state, apparently, not just in this location. And because we are in the business of agriculture, agribusiness, and cattle is a major commerce in our state, I believe that without adding more options to places where they can either go to a truck wash, which I understand Council Bluffs is maybe one of the closest ones, that it is making it very difficult and improbable to have a 100 percent compliance on this. And with that, I would recommend that until there's a solution, making a greater fine and a penalty on the cattlemen and trucking businesses is not what Nebraskans would like to see, and it will reflect back, I think, poorly on doing business here. I would like to yield the rest of my time to Senator Hansen. [LB174]

SENATOR COASH: Senator Hansen, 3 minutes 10 seconds. [LB174]

SENATOR HANSEN: Thank you, Senator Brasch. Going back to the transcripts of the hearing last year, Duane Brooks went on ahead and he's the one with the South Omaha

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Environmental Task Force. Well, it was Senator Brasch actually who asked him if there had been an epidemic for health...any health epidemic. And he said, well, no, there had been no epidemic itself but there's always a possibility. Well, there's always a possibility for anything that happens. Jack Cheloha, who represents the city of Omaha, said as younger kids he didn't realize what it was, but when they came to south Omaha, they said, what's that smell in the air? Well, the old folks in south Omaha said, oh, son, that smells like money. And we still use that out west whenever we have either close to a bank or close to a feedlot, that it is the smell of money for sure. The Trucking Association testified and said, what, you know, we have Grand Island, we have Lexington, and we have packing houses in the northeastern part of the state, but this is a different type of environment that we're talking about because it involves roads, busy roads, high-traffic area, and speed. And the speed in Lexington and Grand Island, the truckers don't drive as fast to keep out of the way of the oncoming cars and oncoming other trucks too. But I think that's part of the problem. Pete McClymont with the Cattlemen testified in a neutral capacity, and that's fine. They are part of the task force. But I think it goes back to what these fines would increase. Senator Chambers certainly would want them increased considerably... [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR HANSEN: ...to be about an annual increase of \$6,300 over a 14-month period, which we were talking about earlier. So is getting rid of those two packing plants worth \$6,300? I think the city of Omaha needs to relook at this. I think Senator Mello needs to reconsider the bill, and I'm certainly not going to vote in favor of it. Thank you. [LB174]

SENATOR COASH: Thank you, Senator Hansen. Senator Cook, you're recognized. [LB174]

SENATOR COOK: Thank you, Mr. President, and good afternoon, colleagues. I also pushed my button to speak before Senator Chambers submitted his floor amendment, FA159, so I will limit my remarks to the bill proposal, LB174. I rise in support of the overall proposal and commend Senator Mello and his staff for working to address an issue that is not only prevalent in south Omaha, as you get closer to the packing plants, but in north Omaha in particular. This is an issue that has arisen over and over again in conversation and in meeting forums in the Florence area. I'm speaking particularly of the North Omaha Commercial Club, and businesses and residents along 30th Street and along Mormon Bridge Road, also known as Highway 36, have brought it up to me. I'll also state selfishly that I am a resident of...I live on Highway 75, which is also known as 30th Street, at the intersection of 30th and Mormon Streets, and have certainly noticed, shall I say, the impact of the trucks as they head down south to deliver the livestock to south Omaha. So once again, I want to applaud the efforts to bring people together to have a conversation to address the issue as a public health issue and also

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as an issue as it relates to quality of life. As I've mentioned, the Florence area is 30th Street or Highway 75 and that area has invested a great deal of money and community effort into beautifying and drawing visitors to the area, and we certainly want to make it as pleasant an experience as possible. With that, Mr. President, I would yield the balance of my time to Senator Mello, if he would choose to take it. [LB174]

SENATOR COASH: Senator Mello, 3 minutes. [LB174]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I'll try to answer as many questions as possible, knowing I'm pretty far in the queue on what seems to be a fairly simply, straightforward bill that's been worked out over a number of years with the industries that actually will pay the fine. Let's start first with Senator Schumacher's question. The reason we went to a mandatory minimum of \$250 was because every citation we could find was always cited at the \$100 level. Thus, in talking with the original concept, we went a little bit to Senator Chambers' issue. Our original proposal two years ago was at \$500. It was after numerous conversations, numerous meetings of trying to build compromise on trying to address an issue that has been facing a portion of the state for 30-plus years in regards to manure, urine, and before then it was blood spills coming from the packing plants. We were able to find compromise with the Cattlemen and the trucking industry at \$250 increase from \$100 fine. In respects to Senator Hansen's statements, unfortunately, I don't know where to begin, with the exception that I would never assume that the cattlemen and the truckers, both the cattlemen who produce cattle and the truckers who transport that cattle, would be supportive of a bill that tries to eliminate the packing industry in Nebraska. I have a tough time buying that argument, Senator Hansen, and I don't know how you jumped from increasing a fine from \$100 to \$250 to some nefarious plot to eliminate packing in south Omaha. The people who are on the South Omaha Environmental Task Force are industry partners, people who benefit from the packing industry as well as the packers themselves. They know this is an issue, which is why they have been supportive of the state trying to increase the fine even if it is only \$150 where it currently stands at the \$100 minimum. So with all due respect, Senator Hansen, I've never said and I've never had any supporter, let alone the industries who have come in support of the bill and/or have worked with us on this bill to get to a neutral position, state publicly or privately that they would like to get rid of the packing industry in the state by simply raising a fine... [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR MELLO: ...from \$100 to \$250. The general concern, I think, of Senator Schumacher, and I'm going to...my legal aide and my administrator...my legislative aide and myself will talk with him about the specific language, this language was agreed upon by all the industry partners who came and testified and worked with us on the bill over a number of years. Senator Fischer's then-legal counsel for the Transportation,

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Telecommunications Committee worked with us on this language in the 2012 Session for us to be able to get to "yes" with some of these partners and industry partners. We just couldn't get there in time because of the session. So if there is language changes that need to clarify that this is...this increase happens on a spill within a city of the metropolitan class, we can clarify that between General and Select File. But for any concerns that this is, for some strange reason, antiagriculture, I'm still...I need to just remind people you can read the testimony. The Cattlemen are outside, outside the glass, willing to explain to everyone. They agree to this compromise. They understand it's a problem and it's a big problem in south Omaha... [LB174]

SENATOR COASH: Time, Senator. [LB174]

SENATOR MELLO: ...and they don't see a problem with LB174. Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Mello. Senator Larson, you're recognized. [LB174]

SENATOR LARSON: Thank you, Mr. President. And I rise today in opposition to Senator Chambers' floor amendment, FA159, and with many concerns about Senator Mello's LB174. Senator Mello has talked about how he's worked over the years with the Cattlemen and the truckers and the relevant groups to get the Cattlemen to a neutral position and the truckers supportive. And from what I understand what the original bill was introduced as to what it's come to be, he's narrowed the scope down to just metropolitan cities and empty trucks and a number of other things. But not to play the puns, this is going to be one of those issues that's a slippery slope. And on that slippery slope that Senator Mello was talking about on rules earlier today, if we do this what happens is that slippery slope. I think we've all again heard the expression, "shit rolls downhill." And what happens when we put Omaha, the metropolitan class in, what's coming next? Then it's just going to be cities: Lexingtons, the Grand Islands. And I'm not going to say this is an antiagriculture bill or anything of that nature, but there is a concern here. When we add beef production, we are the number one beef producing state in the nation. If Senator Mello would yield to a few questions, I'd appreciate it. [LB174]

SENATOR COASH: Senator Mello, will you yield? [LB174]

SENATOR MELLO: Yes. [LB174]

SENATOR LARSON: Senator Mello, I heard earlier while you were talking about the washout or washing, if these guys could just wash their truck out. Do you know what the closest washout is for these trucks that are...would like to wash out but can't? How far do they have to go? [LB174]

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SENATOR MELLO: I'm getting that information because another senator approached me on that as well. And as soon as I get it, I'll go on the mike and try to get that to the entire body. [LB174]

SENATOR LARSON: I did a little bit of research and Google Maps might be betraying me in that research, but it looks like the closest one is about 5.6 miles away in Iowa that handles this type of load. [LB174]

SENATOR MELLO: No. Actually, my aide just conferred with the Nebraska Cattlemen and there's a truck wash at 36th and L, which is right in the heart of all of the meat packing district. [LB174]

SENATOR LARSON: Excellent. Well, they still have to drive to get there, will be that point. And I've also heard throughout this, this is a public health issue and manure and urine is that public health issue, and I'll come to that in a second. But do you think that the industry...you're talking about how the industry finally is getting along with you and has come to define this, and all of a sudden you're defining manure and urine as a public health issue. Do you think that the agricultural industries would be comfortable with you defining their manure and urine as public health issues across the state of Nebraska? [LB174]

SENATOR MELLO: I think...I think, Senator Larson, I think in my ongoing conversations with the cattlemen, truckers, and anyone else, the underlying issue was not a public health reason of why we brought the bill. There has been public health issues raised in regards to unclean spills within the south Omaha area that's led to traffic accidents, but it's not something that is the driving force of why we chose to move on this bill and why the industry has been supportive of trying to increase this fine. [LB174]

SENATOR LARSON: Well, I've heard you talk or a number of other people talk at length about the public health issue of the manure spills and the urine spills and of those things, and is the...in south Omaha, if you want to say, I think the zoo is located. Is the urine and manure in the zoo a public health issue on the sidewalks and in that nature? Or is the...or how much is a fine for somebody that doesn't pick up their dog poop? [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR LARSON: Or the police that, you know, or even during parades if there's a horse that goes through a parade and poops on the street, you know, are we going to fine those people because the horse pooped on the street? I think there's a number of public health issues, if you want to define urine and manure as a public health issue, that could be concerning. And I think Senator Hansen brings up great points when he

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talks about, you know, this is very broad and that you talk about truckers holding their speeds or making sure their loads are, you know, not spilling. I think there's a huge difference between an intentional spill and a nonintentional spill. And I know a lot of trucking operations that not only haul cattle but a lot of grain, and I know when they're having trouble with a certain ethanol plant or a certain co-op, they'll just stop hauling grain there. And if they start having more trouble in the city limits of Omaha based on this, I think he brings up a great point,... [LB174]

SENATOR COASH: Time, Senators. [LB174]

SENATOR LARSON: ...they might stop hauling cattle to south Omaha. [LB174]

SENATOR COASH: Time, Senator Larson and Senator Mello. Senator Carlson, you're recognized. [LB174]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. And I do rise opposed to FA159, Senator Chambers' amendment. And in listening to this debate, in one case I've heard that we have an occurrence, it looks like, about once every ten days. Well, I understand why once every ten days is too much. I understand the concern of trying to take care of it. There is a problem with available washing facilities and available dumping facilities. Now I'm sure that the people in Omaha, other than those that live right nearby, don't want to see these businesses leave Omaha, these packing businesses. And they're bringing food, supplying food. But unless there's a facility close by where a trucker can clean out, there is no option. And it doesn't appear to me, and not having been at the hearing, that the packers are willing to accept some responsibility here for good behavior. Now is it speed? I don't know. If it's speed, basically speed, why can't the speed limit get down low enough so that it's not a problem? Wouldn't that be a sensible thing to try and fix first? And I'm a little frustrated with the Cattlemen and Farm Bureau because I really think that this bill is in the step of a direction that the natural question is, what's next? We can go to construction of a trailer--build it in such a way this can't happen. Well, the way to do that is enclose the sides. And I'm going to ask him in a minute, but I don't think Senator Chambers would be in favor of that at all. That's really mistreating animals. You have no ventilation. But that's a way to stop it. Couldn't do that. But...and I'm not being critical of Senator Mello. I have a lot of respect for him. I don't blame him for bringing this bill. But even though it's his bill, I would like to address Senator Chambers, if he would yield. [LB174]

SENATOR COASH: Senator Chambers, will you yield? [LB174]

SENATOR CHAMBERS: He's against my amendment, he's against doing anything about it, and he has the gall to ask me to yield to answer a question? Yes, I will. [LB174]

SENATOR CARLSON: Thank you, Senator Chambers. I figured you would. Now you've

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got...do you have the bill in front of you, and page 3? [LB174]

SENATOR CHAMBERS: Yes. [LB174]

SENATOR CARLSON: Line 11. [LB174]

SENATOR CHAMBERS: I'm there. [LB174]

SENATOR CARLSON: Okay. And it's saying that within the city limits of a city of the metropolitan class, no person shall spill. What in your mind is a spill? [LB174]

SENATOR CHAMBERS: You mean what are these...what are we talking? Well, when you have something in a container and that container tips or is moving and comes to a sudden stop or is stationary and you make it lurch forward, the contents will overflow and leave that container. That's a spill. [LB174]

SENATOR CARLSON: But in law enforcement, something has to trigger the reason to stop somebody. So is it a cup? Is it a quart? Is it a gallon? Is it five gallons? I don't...you don't know the answer to that, but I don't see that here. There's not a definition and I think it doesn't narrow it down. Would you agree? [LB174]

SENATOR CHAMBERS: You know what a spill is; I know what a spill is. I would not attempt a definition in terms of the number of gallons. As somebody from the rural areas, I'm sure you have a clear notion of what we're talking about. [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR CHAMBERS: And the people in the neighborhoods where I'm talking about know what it is when they go out in the street and they see manure and urine. They know what that is. And although in Senator...well, I'll wait to get on. [LB174]

SENATOR CARLSON: Okay. Thank you, Senator Chambers. I'd like to address Senator Mello in the last few seconds. [LB174]

SENATOR COASH: Senator Mello, will you yield? [LB174]

SENATOR MELLO: Absolutely. [LB174]

SENATOR CARLSON: Senator Mello, do you know where we're looking at on the bill? It's page 3. Now I'm looking at line 12. [LB174]

SENATOR MELLO: Page 3, line 12,... [LB174]

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SENATOR CARLSON: Yes. [LB174]

SENATOR MELLO: ..."spill"? I assume... [LB174]

SENATOR CARLSON: No, no. No, first word there is "Any." Now any person who violates this is going to pay the fine. [LB174]

SENATOR MELLO: That happens now under current law right now, and "spill" is also not defined with a special designation under current law. [LB174]

SENATOR CARLSON: Okay. [LB174]

SENATOR MELLO: So it's simply the same definition equivalent that we have in current law for anyone who would spill anything, intentional or unintentional, at \$100 fine. [LB174]

SENATOR CARLSON: Okay. Thank you, Senator Mello. How much time? [LB174]

SENATOR COASH: Eight seconds. [LB174]

SENATOR CARLSON: Oh. Well, that's not enough. Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Carlson and Senator Mello. Senator Christensen, you're recognized. [LB174]

SENATOR CHRISTENSEN: Thank you, Mr. Chairman. Yeah, I think we got to be careful what we're doing here with this bill. I appreciate Senator Carlson's words on spillage and how it's defined. And I think something else we got to think about is the opportunity to clean out the truck. You've got to have the opportunity to get to a place to pull the traps, to clean it out, to a truck wash, whatever the case is. If you're not familiar, if you get in there with cattle that have frozen mud and different things on them when they're unloaded...plus, the shrink. They lose a lot of water in the hauling of them. Four percent shrink is not uncommon and even more than that when they have mud and things attached to them and that mud and everything falls off from the heat of the animals. That doesn't happen when they're running around outside in the open lots. And so all of that contributes to the issue that we're talking about, filling up the capacity area of them trucks to hold the liquid, the manure, anything that you want to look at that has the potential of raising that level so it could slop out, because the trucks are made to hold a certain amount of it. And then they have traps underneath for draining, and if you have the ability to drain your truck at that slaughter plant before you leave, I understand why we want very rigid standards in not having it elsewhere. I'm not sure I'm agreeing that there's a health issue with this because this is safer than what most people put on their lawns, called fertilizer. This is a natural fertilizer. That's what manure is. So it's a

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difficult thing to define what we want to do here and where we're going to end up with it, because of what we're dealing with. But the fact is we have rules against the spillage now. We have rules against the loss of it. So I'm not sure what the whole problem is. But Senator Mello has told me that he would answer the question, where the nearest drop-offs are on the manure, and I'll yield him the rest of my time. [LB174]

SENATOR COASH: Senator Mello, you've been yielded 2 minutes 20 seconds. [LB174]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. And thank you, Senator Christensen. As I mentioned under Senator Larson's question, the truck wash is dead set in the middle of the meat packing district at 36th and L. So, in theory, any truck that needs to use a wash is within, give or take, a two- to three-block radius of having to utilize a truck wash if they so choose to. A couple points, and maybe it's Senator Carlson's questions as well as some of Senator Larson's statements. First off, this is existing law. It's a \$100 fine. And what we're trying to do is increase the fine to \$250 if they spill in Omaha, only if they don't have cattle or livestock in their vehicle. We could have went and said any spill, which means they could drop a cup of manure right now and get fined \$100, if they so choose. But in trying to work out a compromise with the industries involved, this was the language that we all agreed to. And I think the bigger thing is...I'm just going to be sending a letter around, and it was a little dialogue Senator Hansen and Carlson mentioned. There has been numerous efforts taken on behalf of both the city, the cattlemen, the truckers, public works, public health, not just in Omaha, Nebraska. But this issue, ultimately, if you ask the Trucking Association, they would tell you,... [LB174]

SENATOR CARLSON: One minute. [LB174]

SENATOR MELLO: ...as would I, that there is a small number of problem truckers who do this, who simply open up their traps when they leave and let the manure come out, because they know it's unlikely the Carrier Enforcement Unit of the State Patrol will be able to catch them. And the likelihood is why we expanded our outreach into Iowa, because we believe most of these people violating this current law intentionally are out-of-state truckers. There's a reason why the Trucking Association said this is something that they believe needs to be done. And actually, they argued it probably should be done statewide, not just within the city of Omaha. But in the spirit of compromise, we kept it within the limits of the city of Omaha because that is where it's a more noticeable problem, off very tight, close interchanges in a very urban setting. So hopefully that answers some of Senator Carlson's questions, Senator Hansen's questions. Any illusion that this is going to impact the packing industry is a farce. And I'm disappointed that colleagues wouldn't come approach me off the mike to ask the question of the packing industry, which I have developed a relationship, working on this bill amongst others. This is not about... [LB174]

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SENATOR COASH: Time, Senator. [LB174]

SENATOR MELLO: ...reducing business or trying to thwart their business activity.
Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Mello. Senator Bloomfield, you're recognized.
[LB174]

SENATOR BLOOMFIELD: Thank you, Mr. President. Senator Mello, in his opening, mentioned that this was a modest increase and miniscule. Only in a legislative body could a 150 percent increase be described as modest or minuscule. I rise in opposition not only to LB174 but to FA159 that Senator Chambers so generously offered. Senator Hansen started trying to explain to people the possible damage that could be done to the packing industry in Omaha. If this fine is increased, that cost is passed back to the shipper at some point. If that shipper finds it greatly cheaper to go to another packing house because it now costs more if somebody happens to spill a little something in Omaha, they'll go to Lexington, they'll go to Kansas. They're not going to bother with Omaha. And if that's what the legislative body representatives from Omaha would like to see happen, let's raise this fine to \$10,000. Let there be no limit. Let's block those trucks from going to the packing houses. I've had a little experience in the trucking industry. I have not hauled livestock. I've had a little experience in the livestock industry. Walking in manure is not pleasant. Driving in it is not pleasant. What it does to your car and your windshield is not pleasant. But to risk the loss of jobs in Omaha so that we can take in a little more on a fine I don't believe is a wise idea. There is the south end of Winnebago, what the community now refers to as the fecal roundabout. It's a highway roundabout that was designed not large enough to handle big trucks. When the trucks go around, the inside wheels go up on the bricks that are in the center that causes an unevenness in the truck, and if there's anything in there, it runs out. If we have highways that are so poorly designed in Omaha that they can't handle the trucks, maybe we ought to look there too. There are a lot of ways around this and there are bad things that can happen if we increase these fines. We talk about them opening the trap and driving down the street? Well, they probably won't do that in Omaha anymore. They'll wait till they get out of town and you'll have it on the interstates, or they'll open it a little bit before they get there, a portion, enough not to endanger the livestock but enough to let some drain out. We'll have it on the roadways before you get into town. At that point, it won't be a gallon, two gallon. It will be 100 gallon, 200 gallon. I don't think we want that scattered along our highways and byways in Nebraska or in Iowa. Again, I will oppose both the bill and the amendment. And I do have one question for Senator Mello, if he would yield.
[LB174]

SENATOR COASH: Senator Mello, will you yield? [LB174]

SENATOR MELLO: Yes. [LB174]

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SENATOR BLOOMFIELD: Thank you, Senator Mello. Under the current law, do our roadside cameras, can they be used to issue a ticket for this spillage or are we still counting on the eyes and ears and nose of the Patrol? [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR MELLO: As far as I know, Senator Bloomfield, I have no understanding or can give a confident answer that anything else but the State Patrol, particularly the State Patrol Carrier Enforcement Unit, issues tickets in regards to trucking industry violations and citations under state law. [LB174]

SENATOR BLOOMFIELD: Is there anything preventing them in law, to your knowledge, from using a camera? [LB174]

SENATOR MELLO: You would have to ask Senator Dubas, because I am unaware of that specific nature of statute. [LB174]

SENATOR BLOOMFIELD: Okay. Thank you. [LB174]

SENATOR COASH: Thank you, Senator Bloomfield. Senator Chambers, you're recognized. [LB174]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask Senator Mello a question. [LB174]

SENATOR COASH: Senator Mello, will you yield? [LB174]

SENATOR MELLO: Yes. [LB174]

SENATOR CHAMBERS: Senator Mello, this handout, which I think has your initials, lists six individuals' names and the entity they represent. Did all these people sign on to this bill? [LB174]

SENATOR MELLO: This, they signed on to this letter that was issued by the city of Omaha to send out to truckers, both in Nebraska and in Iowa. [LB174]

SENATOR CHAMBERS: Which trucking interests agreed with this bill,... [LB174]

SENATOR MELLO: The Nebraska... [LB174]

SENATOR CHAMBERS: ...forgetting my amendment? [LB174]

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SENATOR MELLO: The Nebraska Trucking Association came in support of LB174. [LB174]

SENATOR CHAMBERS: Was there anybody from the packing industry who supported it? [LB174]

SENATOR MELLO: There was no specific packing house that came and testified in support of the bill. But as a member of the South Omaha Environmental Task Force, the general task force which they're members of, came in support of the legislation. [LB174]

SENATOR CHAMBERS: None came and spoke against it? [LB174]

SENATOR MELLO: None and came and spoke against it. [LB174]

SENATOR CHAMBERS: Thank you. So we have Senator Bloomfield standing up here pontificating; Senator Hansen, who doesn't live in the area, telling us we have to let these rural people foul our streets because they make a living out of agriculture. Then Senator Larson, I hope he went downstairs to wash his hands after he uses a rest room, urine and manure are not health problems. Maybe in the rural area they're not. Maybe they don't change the diapers of their babies. Maybe they don't want the people in the restaurants to wash their hands when they leave the bathroom. Maybe they walk around with urine and feces or manure on their clothes, track it through the streets, track it into their homes. Maybe at the packing houses they're aware of the meat is allowed to float in urine and manure and it's no health problem. That is crazy. That is insane and it is downright stupid, uncivilized, and barbaric. E. coli, we're warned about that. A chicken plant was shut down in California just because they had cockroaches. Now maybe if the chickens were floating in urine and manure and it drowned the cockroaches, they wouldn't have shut the plant down. They're not aware of any standards that relate to hygiene, health, sanitation. The rural areas are worse off than I thought. But the people who are here are the best representatives of that area, and if they're not, the people had the opportunity to send them here. So when they stand on this floor and that comes out of their mouth, I take their word for it. They're speaking for their people, their standards. And manure and urine where people live, where their children play do not constitute health hazards? I'm the one who raised the issue of it being a public health issue, and I still believe that it is. And if there are restaurants where they have manure on the floor of the rest room and urine splashed all over the rest room and on the walls, now in the rural areas that's not a problem. But it would certainly pose a problem for an eating establishment in Omaha. And there are a lot of problems in Omaha, but I have yet to hear anybody say that urine and manure where little children and other people are does not pose a health hazard. [LB174]

SENATOR COASH: One minute. [LB174]

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SENATOR CHAMBERS: That is irrational. And these people who have the nerve to talk about this shutting down the packing industry, that's insane and stupid. It's stupid. This bill is not going to shut down any packing plant and whoever says that knows nothing about the packing industry, nothing about the trucking industry. And I can't wait for these rural people to bring a water bill here and want urban people to pay for their water issues, all the water that they use for irrigation and all these others. I cannot wait. We don't have a problem in Omaha with inadequate water. We're not telling rural people you pay taxes so we can have water in the rural, in the city areas. I can't wait. Now I see where we're going this session and I will take off the gloves and let you know that you're going to get your even change, if not from anybody else, from me. [LB174]

SENATOR COASH: Time, Senator. [LB174]

SENATOR CHAMBERS: Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Chambers. Senator Mello, you're recognized. [LB174]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. A couple points of clarification: Senator Hansen, I think, read some testimony from the hearing in respect to the South Omaha Environmental Task Force and maybe I needed...be...expand a little bit more clear in regards to who makes up that task force, because I think there may be some concern of who represents this environmental group. It's made up of all the major meat packing industry and heavy industry...heavy industrial businesses in the south Omaha area in conjunction with local public officials and state officials, including the State Patrol, and nonprofit organizations like the (Nebraska) Trucking Association and the (Nebraska) Cattlemen's association. I can rest assure knowing that this bill, LB174, was devised, discussed, debated, and, ultimately, brought forward to the Transportation and Telecommunications Committee with the support of the interests and entities that have anything at stake in regards to what we're trying to do. The meat packing industry has understood for a number of years that it is a quality of life issue in the south Omaha area in regards to the number of spills...it started out not just manure and urine spills, but blood spills that came from their plants, which over a number of years they worked to correct that. And it was an ongoing, joint, public/private effort to try to address those issues. My predecessor, Don Preister, had led the organization for close to 20 years and still is heavily involved. And he would...if he was here lobbying on the bill, he would tell you we have exhausted every possible venue we can in south Omaha and under state statute and that's why we're at LB174. And I agree with Senator Chambers' point which is: it is ludicrous; it's hyperbole at its worst when we discuss floor debate that an increase of \$150 fine on someone who is already breaking the law will run a business out of Nebraska. If that was the case, the packing industry in my district would have testified in opposition; they would be out in the lobby telling everyone this is terrible, we're going to lose business; we're going to

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shut down this entire industry in the state; which we all know they're not and they're not doing either one of the sorts because they were well aware of this. And they understand that a fine at their facility is a mandatory \$500 fine. If you spill manure in your truck on their facility, which is what we're changing in statute, it's a \$500 minimum fine, not a \$250 fine. So they're more than willing to say, look, if you increase the state fine, the more the better, because we've realized this is a problem, we're trying to address it from our end as the private sector, but we know there will always going to be some bad actors who don't follow the law. And as I mentioned in the previous time that Senator Christensen gave me, there are bad actors. The Trucking Association acknowledged that, the Cattlemen acknowledged that. And granted, this may not solve a 30-, 40-year problem in regards to manure spills in the Omaha area. But it's the first time that we've been able to get both industry, neighborhoods, the city, and the public and its local and state elected officials around a concept that tries to disincentivize anyone from ruining the quality of life of children and families in the Omaha area by having to walk in their neighborhoods or drive a bike down the street or take a motorcycle around a state interchange and have to run into manure. That's what we're trying to do. It's not, as I mentioned, a nefarious plot against agriculture, against the packing industry, because if it was they wouldn't be supportive of the bill then. I can understand that the rural senators who are concerned of a slippery slope, but the reality is, this is an existing state law; it's a \$100 minimum fine. And as Senator Schumacher mentioned, a judge can levy a \$500 fine if they want if they spill any manure. A cup of manure they can issue a \$500 fine if they want to. But judges, normally, issue \$100 minimum fine. [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR MELLO: And so what we're trying to do is when a driver knowingly has a full load of manure, after dropping off livestock at a plant and they commit this offense, they've got to pay a higher mandatory minimum fine of...minimum \$250. That still doesn't mean they may not get the \$500 fine, but that's left up to the judiciary to decide. We're simply creating a new level of minimum fine. And reasonable people, colleagues, can disagree on increasing a fine or decreasing a fine. But this is an issue that has plagued my part of Omaha and my part of the state for generations. And asking a fine of \$150 more for a driver who is willingly breaking the law is not too much to ask. And I think that's why the Cattlemen and the truckers also support this bill because they know it gives them a bad reputation, not just in south Omaha, but it gives them a bad reputation across the state as well. Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Mello. Senator Nelson, you're recognized. [LB174]

SENATOR NELSON: Thank you, Mr. Speaker and members of the Legislature. Many of my questions have already been answered. But I do need some clarification from

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Senator Mello if he will yield. [LB174]

SENATOR COASH: Senator Mello, will you yield? [LB174]

SENATOR MELLO: Yes. [LB174]

SENATOR NELSON: Thank you, Senator Mello. I think early in your presentation you talked about several highways. Do I understand that the State Patrol really didn't have jurisdiction before, is that what you said? [LB174]

SENATOR MELLO: No, that the State Patrol has jurisdiction over state highways like the Kennedy Freeway, L Street, and the West Dodge Expressway. [LB174]

SENATOR NELSON: All right. [LB174]

SENATOR MELLO: They don't have jurisdiction over municipal streets, so to speak, for state statute fines. [LB174]

SENATOR NELSON: The city...does the city have an ordinance already in place now? [LB174]

SENATOR MELLO: They do in respect to city...in regards to the city streets, they do. [LB174]

SENATOR NELSON: But they don't cover state highways? [LB174]

SENATOR MELLO: They don't. They actually...you know what, they may cover it, but they have to follow state law though in regards to that statute. So the city fine is, maybe, higher than the state fine which is at \$100, which is why they have to go with the state fine, because it was on a state highway. [LB174]

SENATOR NELSON: Okay. So then this statute, if we pass it, is only concerning state highways and travel on L Street, for instance? [LB174]

SENATOR MELLO: Correct, correct. [LB174]

SENATOR NELSON: Your diagram is helpful here. Are those the only three packing plants we have in Omaha? [LB174]

SENATOR MELLO: Those are the major three packing plants in the south Omaha area. There are rendering plants and other industry that's closely associated with these packing industries. But this is where, as I said, as you look at the diagram, where a majority of the trucks are coming into day in and day out is off Kennedy Freeway on L

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Street. [LB174]

SENATOR NELSON: Well, I recall...and maybe there isn't any more, there used to be a packing plant down in Bellevue. And when you say other ancillary plants, are there trucks delivering animals there and (inaudible)? [LB174]

SENATOR MELLO: I'm not aware of any other packing plant. There may be other plants that take product and by-products after they've gone to the packing houses in south Omaha. I could get more information for you. But I know, for example, there is like a Tyson Food plant, but they're not...they're not, I would say, actually cutting the...I'd say, cutting the carcasses and doing the work right now that the other three major packing plants are. They're doing other kinds of food processing while they're there. [LB174]

SENATOR NELSON: I remember years ago it was fairly simple because all of the livestock went to the livestock yards first and the exchange and it was just a simple matter to get from there, because I think at that time there was a truck wash on L Street, right on L Street, and not down on Edward Babe Gomez Avenue. I guess I'm still a little concerned about those that are a distance away if...where are we if they're having to travel a state highway to get to the wash there at that 36th Street location? They are hauling on a state highway and they haven't yet had an opportunity to wash. Is that correct? [LB174]

SENATOR MELLO: I guess I don't understand your question, Senator Nelson. There is a truck wash right in the middle of the packing district at 36th and L. [LB174]

SENATOR NELSON: Of those three, yes, I understand that. [LB174]

SENATOR MELLO: Yes. [LB174]

SENATOR NELSON: There's no problem there. It's just if we have packing plants that are a distance away, then I could see a little problem. [LB174]

SENATOR MELLO: I don't believe there are any packing plants outside of south Omaha, but I'll double-check. [LB174]

SENATOR NELSON: All right. [LB174]

SENATOR MELLO: And there are other truck washes in the Omaha area. But in relationship to when a truck leaves the packing house, this truck wash, or the main truck wash at 36th and L, is the closest in proximity. [LB174]

SENATOR NELSON: All right. With regard to the minimum fine, can that be paid without going to court, do you know? Would they have the option of just...if they were stopped

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and cited that they could just send \$250 in? [LB174]

SENATOR MELLO: I believe so, Senator Nelson, but I will need to get back to you on that. [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR NELSON: All right. Maybe you can get an answer to that down the road, but otherwise thank you, Senator Mello. In my opinion, probably \$250 fine is probably about right. I think that's enough over the \$100 current fine that it's going to make a difference to the truckdrivers and the owners of the two or three trucks that bring them in. And I think it would probably be a disincentive to violate the law. Thank you, Senator, and thank you, Mr. Speaker. [LB174]

SENATOR COASH: Thank you, Senator Nelson. Senator Schilz, you're recognized. [LB174]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. I sat here and listened to the debate so far and, you know, there could be problems with this, I understand that. I've been around cattle, cattle trucks, packing plants my whole life. I would...some of you may differ, but I have noticed no ill health effects from being around that. I also know that truckdrivers, you know, most of them own their own rigs. They don't make a lot of money. They may only make \$100, \$150, \$200 a load, depending on what they're doing and where they're going. So if you increase the fine to one point, it may not be the packing plants that have the problem, it can be those truckers themselves that have the problem. And those folks work long hours, hard days to make a living to do what they like to do. And I think we need to be cognizant of that and careful of it. We need to remember that agriculture is our number one industry. And cattle built Omaha. There's no doubt about it. The reason that Omaha grew to the size that it is and the prominence that it is, is exactly because of those packing plants in south Omaha, the stockyards. We should be proud of that heritage. It put Nebraska and Omaha on the map. It's an important industry that we need to support. Cattle can come to Omaha from anywhere in the state, anywhere in the country. It's important that we can continue to bring those in there. We've got three packers that are there. We need to make sure that those lines of transport are there as well, because without that, that doesn't happen. Will this bill, if the fine is increased, cause truckers to go out of business? I don't know; I can't tell you. But I can tell you this, it is a business. And when we talk about the L Street truck wash, according to what I've heard is that you can't take your truck there and just clean out the trailer, you have to clean your whole truck which can take time, put people behind schedule, and cause issues. I would like to see if Senator Mello would yield to a question. [LB174]

SENATOR COASH: Senator Mello, will you yield? [LB174]

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SENATOR MELLO: Of course. [LB174]

SENATOR SCHILZ: Thank you, Senator Mello. You had talked about something much, in my mind, much worse than a manure spill and that was...you said there were blood spills in Omaha. [LB174]

SENATOR MELLO: Back in the '60s, yes, there was, and '70s. [LB174]

SENATOR SCHILZ: And what specifically was done to alleviate that problem, do you know? [LB174]

SENATOR MELLO: Well, I think part of it, there was a considerable amount of community advocacy against the packing industry at the time; which the packing industry took, I think, that public debate to heart and, ultimately, they changed some of their practices, as did the city of Omaha who adopted ordinances over a number of years to restrict what kind of chemicals and/or by-products could be coming from packing plants that flowed into the city of Omaha sewer system. [LB174]

SENATOR SCHILZ: Right. And that was alleviated through the community partnership, as well as through laws; and I appreciate that. There is a law on the books; and if a judge sees a repeat offender, he could probably do that. He could probably charge the fine that he wanted to. One other thing that we look at, you know, as we sit here, it's important for us also to realize that those jobs in Omaha at those packing plants are important as well. [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR SCHILZ: Thank you. But quite honestly, I believe that this is one of those things that needs to be worked on at the local level with folks. I just don't want to see us put ourselves in a situation where we put truckers and their livelihoods, and possibly the ability of folks to get their cattle harvested the way they need to, put in jeopardy. And so I will be sitting here not supporting it. I would also like to...well, I'll get that on my next one. Thank you very much. [LB174]

SENATOR COASH: Thank you, Senator Schilz. Senator Wallman you're recognized. [LB174]

SENATOR WALLMAN: Thank you, Mr. President. Good afternoon, members of the body. I'm against the amendment and the bill. And why? There's always been a fine if you dump manure on a packing plant lot or stockyards. There's always been a fine so nobody does it that I know of...that I ever knew of. And if you load a...a load of green cattle, like Senator Hansen or somebody could explain, there's no way that you're going

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to contain all that manure in the trailer; it's going to come out of the sides and the slats. And when it's a hundred degrees, you will not put in your slats. And to clean your trailer when it's 10 below zero and you unload cattle, you cannot get that stuff out. So it's going to be in there and then when it thaws there's probably going to be some melting down the highway. I've driven up 75 and I've driven on the interstate, some packing plants, and I've never have seen much of a problem to me. And it makes the grass grow greener along the interstate. (Laughter) And so it's a natural fertilized product, folks. It's a part of nature. And so I will vote against the bill and plus...as well as the amendment. And I'd yield the rest of my time to Senator Mello. [LB174]

SENATOR COASH: Senator Mello, 3 minutes 40 seconds. [LB174]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Thank you for your time, Senator Wallman. I'm going to have to, respectfully, just disagree with Senator Schilz's, I think, leap of faith in regards to where a \$250 fine will lead to the detrimental impact of the food processing industry in our state. As I mentioned earlier, I've heard hyperbole on this floor over my five years here when we try to make arguments, but to say a fine that the industry supports is going to destroy the industry that, colleagues, is, I think, a leap too far for me, in part because there's no jobs at stake in regards to increasing a fine. What you have is you have rogue truckers who the Trucking Association even acknowledges exist who, one, don't want to clean out their trucks; they want to take the risk of spilling...opening their traps and spilling manure out of their trucks as they leave the south Omaha area and take the risk on whether or not the State Patrol will be there to catch them and issue them a citation. As I've come to find out, the city of Omaha also uses our current state statute that provides a \$100 fine within the city of Omaha when judges take that consideration in issuing their fine as well. So increasing the fine to \$250 on state highways has the possibility of having judges...local, city judges increase that fine to \$250 at the city level which will also help be a deterrent. But for a rural senator to stand on this floor and say that the food processing industry is going to get destroyed, we're going to lose thousands of jobs by increasing a \$150 fine. I look forward to having the debate on my bill regarding the CSO in regard to Omaha sewer problem then, because that is a bill, that industry has come in support of saying that will cost thousands of jobs if we don't find a way to deal with it. So all the rural senators who oppose that bill over the last four years, I look forward to having that debate because if a \$150 fine on rogue truckdrivers spilling manure, which is supported by the industry that is doing it, is going to destroy an industry, I have to assume a \$2 billion infrastructure project that is going to skyrocket rates has a much bigger impact, a much bigger impact. But we'll have that debate, Senator Schilz and others, when we get there. With all due respect to my colleagues who, for one reason or another, have not approached me to find out more information about this bill, that simply looked at the transcripts and saw that, yes, the Trucking Association supported; yes, the Cattlemen came in neutral,... [LB174]

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SENATOR COASH: One minute. [LB174]

SENATOR MELLO: ...but they mentioned over and over and over again that they supported the concept of what we're trying to do and their membership moved from opposition to neutral because of the compromise that we made of increasing the fine to \$250. With all due respect to Senator Chambers, I can't support his amendment because the agreement I made in the spirit of compromise was that \$250. I would be going back on my word and the compromise I made with the South Omaha Environmental Task Force and the industries that came and testified on the bill if I made a change in the dollar amount. It's tough enough as it is trying to convince an industry they need to increase the fines on themselves. And we were able to do that in LB174, colleagues. I simply think that the fear of some unknown encroachment is overblown, it's unsubstantiated, and, frankly, I'm just disappointed that colleagues wouldn't come approach me and talk to me about this before they went to the mike and said, I would say,... [LB174]

SENATOR COASH: Time, Senator. [LB174]

SENATOR MELLO: ...just outlandish things about LB174. Thank you, Mr. President. [LB174]

SENATOR COASH: Thank you, Senator Mello. Senator Davis, you're recognized. [LB174]

SENATOR DAVIS: Thank you, Mr. Chairman. I just have a few questions of Senator Dubas and then Senator Mello. [LB174]

SENATOR COASH: Senator Dubas, will you yield? [LB174]

SENATOR DUBAS: Yes, I will. [LB174]

SENATOR DAVIS: Senator Dubas, as Chair of the Transportation Committee, can you elaborate a little bit on the testimony that came from the trucking industry? [LB174]

SENATOR DUBAS: Yes, I'd be happy to. The representative from the trucking industry came in, talked about the importance of having the fine be, at least, at the same level as a truck wash. If the fine is going to be less than what it costs you to go and clean out your truck, why wouldn't you take a gamble and pay the lesser fine. So from their perspective having the fine be at least at a cost of what the truck wash is...in fact, she even shared a conversation that she had had the morning that she came in to testify that afternoon with a bull hauler, which for those of us who raise cattle know what a bull hauler is, those guys that haul bulls and cattle for a living. He thought this was a great idea and actually even said he didn't know why it shouldn't be statewide. Senator Mello

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has worked very closely with this industry, compromising, trying to take all of the industry's concerns into consideration. And that's why he has just focused on the issues going on in Omaha. [LB174]

SENATOR DAVIS: And did they give any testimony about problem violators or perennial violators? [LB174]

SENATOR DUBAS: They...not to a great deal of detail. But she did reference...they did reference that there are those few bad actors and that, by being able to have this fine increased, they hoped that even reduce the number of those few. [LB174]

SENATOR DAVIS: And, Senator Dubas, I've lost my train of thought here...I think, maybe, that answers that question. I might come back to you. Senator Mello, will you yield to a question? [LB174]

SENATOR COASH: Senator Mello, will you yield? [LB174]

SENATOR MELLO: Of course. [LB174]

SENATOR DAVIS: You made some reference earlier to accidents that were connected with that manure, can you elaborate on that a little bit more? [LB174]

SENATOR MELLO: Yes, I believe my staff was able to get you a copy of an article or a post off of an on-line Web site in Omaha, KFAB, or the radio station KFAB.com had information as it was in the World-Herald and other publications about a motorcycle accident in July of 2009, which was going on the Interstate 80 northbound lanes on JFK where they lost control of the motorcycle going onto the highway due to a manure spill. [LB174]

SENATOR DAVIS: And that's one accident. But I thought I heard you say there had been a number of accidents. Do you know anything else about other accidents that might have taken place there? [LB174]

SENATOR MELLO: I believe there was another motorcycle accident in 2012 as well. I'll have to get that documentation for you. We recently...it happened right as we were working on the bill back in the last legislative session in 2012, but I will double-check and get that information back to you. [LB174]

SENATOR DAVIS: And what is the municipal rule on this in the city of Omaha? I might have missed part of this because I was gone for a while. [LB174]

SENATOR MELLO: The city of Omaha has jurisdiction over anything as well. But the reality is, under state highways, that falls under the state jurisdiction for state statute.

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And so right now it's \$100 fine for the state law. The jurisdiction falls under the State Patrol so the Omaha police are not pulling over trucks if they're on a state highway because that's not their jurisdiction. They're focusing instead on city-owned and city-maintained streets. [LB174]

SENATOR DAVIS: And are they pulling people over on city-owned streets? [LB174]

SENATOR MELLO: Yes. And they're issuing fines and taking it to the city prosecutor's office to prosecute those cases. [LB174]

SENATOR DAVIS: And what is the fine in Omaha? [LB174]

SENATOR MELLO: It is a range, but mostly, as we've come to find out, the city of Omaha said they follow...the judges follow what the fines (inaudible) at the state level. So right now a majority of their fines are minimum...the minimum \$100 level at the city level is also. [LB174]

SENATOR DAVIS: And do you know what effort the State Patrol has made to crack down on these violators by watching that area? [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR MELLO: They...you know, we have a quarterly meeting...or we did have a quarterly meeting, now moves to a biannual meeting of the South Omaha Environmental Task Force where the State Patrol comes in to this meeting and walks all of the interested parties, both business and government and nonprofit groups, through their traffic reports for the areas over the previous quarter. And so the State Patrol plays a pretty critical role of educating the community in regards to the number of citations. They've offered, as well, some of the number of stops. And then the city...the Douglas County and the city also provide information in regards to the number of manure spills that are on city streets. [LB174]

SENATOR DAVIS: Thank you, Senator Mello. I'll yield the rest of my time to Senator Chambers. [LB174]

SENATOR COASH: Senator Chambers, 20 seconds. [LB174]

SENATOR CHAMBERS: Thank you, Senator Davis. Mr. President, I'm going to withdraw that amendment I have pending. [LB174]

SENATOR COASH: Thank you, Senator Chambers. FA159 is withdrawn. Returning to discussion on LB174, Senator Carlson, you are recognized. [LB174]

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SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. This discussion is very, very interesting. And I've changed my perspective a little bit as I've listened to what's being said. If the cost of a truck wash is in the area of a hundred dollars and the fine has been in the area of a hundred dollars, there's not, probably, enough incentive there. So, I think that the bill that changes that to \$250 would give some more incentive to wash his truck instead of taking a chance that you won't get stopped. Now as a part of this discussion, what really irritates me is the fact that there are truckdrivers who intentionally open their traps and let the manure and urine go. And those people ought to really be caught and they ought to be punished. Now I'm not going to do it, but, Senator Mello, I'm going to ask you a question in a minute, but look at the bill, if you would...can I address Senator Mello? [LB174]

SENATOR COASH: Senator Mello, will you yield? [LB174]

SENATOR MELLO: Of course. [LB174]

SENATOR CARLSON: Senator Mello, on page 3, line 12, and that says: Any person who violates this subsection is guilty of a Class IV misdemeanor and shall be assessed the fine of \$250. [LB174]

SENATOR MELLO: Correct. [LB174]

SENATOR CARLSON: Now it irritates me so much to believe that there are people that intentionally open the traps and let that stuff go that I'd be tempted to put in...I won't do it, I'd be tempted to put in another amendment that would say: Any person who intentionally violates this subsection is guilty of a Class III misdemeanor and shall be assessed a minimum fine of at least \$1,000 because that is just not acceptable. And if that kind of behavior happens, even infrequently, it's very understandable why the people in that area would be pretty upset. I'd like to ask you on the sheet that you handed out that had the businesses on it... [LB174]

SENATOR MELLO: Um-hum. Yes. [LB174]

SENATOR CARLSON: The...about halfway down, if you have an accidental spill, please call your delivery location for assistance. Well, if there is an accidental spill, what's the consequences of that, \$250? [LB174]

SENATOR MELLO: The accidental spill is still \$100 fine if...if the State Patrol would come and issue them a citation. The challenge is that the State Patrol is not able to monitor and to patrol this area 24 hours a day, 7 days a week. And so they have to do spot coverage of carrier enforcement when they can. [LB174]

SENATOR CARLSON: I understand that. Let's take the next statement: Do not park or

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stand on private property or city streets. What happens if they do? [LB174]

SENATOR MELLO: Usually there's a considerable number of calls that the city of Omaha gets in regards to when a semitruck is in an area of the packing district that they shouldn't be in. And so normally the city will send a patrol officer and/or they'll radio into the packing house or contact the packing house and let them know you've got to get X, Y, and Z out of where they're currently at. One of those two processes are usually what occurs when a truck is not supposed to be...or when a truck is in a place it shouldn't be. [LB174]

SENATOR CARLSON: Well, why is it in a place it shouldn't be? Because they're waiting? Is there plenty of room? I don't know. Down in that area that they should be able to find a place to park that is not illegal. Or is it so tight in there that if they're lined up, they don't have choice? [LB174]

SENATOR MELLO: I would love to have you down to the packing district, Senator Carlson, and show you, I would say, the confines of a very urban area that has three very large packing houses within it. The issue always arises is that the packing houses try to radio into trucks to let them know where they need to go as they're trying to come in and deliver a load. Sometimes trucks...sometimes truckers choose to listen to the house...packing house; sometimes they choose just to go where they want to go. It's an ongoing issue that... [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR MELLO: ...that packing houses have acknowledged they're trying to work more and more diligently on to keep truckers in areas where they shouldn't be. [LB174]

SENATOR CARLSON: So do you believe then that the fine going from \$100 to \$250 may be enough incentive to help truckers find a legal place to park rather than parking any place? [LB174]

SENATOR MELLO: Well, I think the issue you raise on this letter is where they're supposed to park before they drop off their load. The issue we're trying to deal with in LB174 is once they've given their load to the packing house and they have a truck that may or may not be filled with manure and what they choose to do in regards to moving forward and transporting that truck out of the Omaha area. This letter deals more with trying to direct people as they come into the area, as well as give a little instruction as they leave. [LB174]

SENATOR CARLSON: Okay. And I'd be interested in a little more information on what their options are when they're still loaded. But that will be...I'll talk to you individually on that. Thank you, Senator Mello. [LB174]

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SENATOR COASH: Thank you, Senator Carlson and Senator Mello. Senator Chambers, you are recognized. [LB174]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I do take seriously things that are said on this floor. And I take offense when some senator indicates that...I'm not going to put it on anybody else, my concern about a public health issue that springs from urine and manure spilling out of these trucks. We're not talking about a dog defecating in somebody's yard. I don't believe rural people when they're trying to fertilize their gardens will say: bring me in a truckload of manure and urine and drop it in my front yard. I'm a member of the Ag Committee and I hear people all the time and I get many letters from them about only the stench and the flies, not urine and manure dropped where they live and their children play. You know what, when I used to watch these commercials for Charmin tissue, Downy, I know now why they never have anybody from the rural areas. They don't use toilet tissue. They should. Even the bears use toilet tissue. Bears. And when you can go out in the forest and learn something about sanitation, hygiene for you and your children from watching the bears, something is wrong. Maybe rural people have built up immunity and they don't have any problem with E. coli, Hepatitis, none of that. Do you know that bacteria do not infect viruses and viruses do not infect bacteria? Did you know that? If you got a virus, they don't fill a syringe with bacteria and inject you and the bacteria will kill off the viruses. I'm going to tell the people at the CDC--that's the Centers for Disease Control--that they need to come up here to Nebraska and draw some blood from these rural people. They don't use toilet tissue. They don't clean their bathrooms, their restaurants; have people who don't wash their hands after they go to the bathroom, or they'd just as soon wash them in urine as in water coming out of the tap. I'm led to say this by what I heard on this floor because somebody is ridiculing and downplaying, minimizing the health aspects to manure and urine dumping from cattle trucks in areas where children and their families live and they talk about family values. Senator Hansen talking about this is going to shut down the packing houses and the packing houses charge \$500 if you spill on their property. See why I say it's stupid to say that this fine is going to shut down the packing plants and they're charging a higher cost than that. Now they got the stench, the blood, and everything right there; and they don't want more of it dumped there by these people. It shows that Senator Hansen, Senator Schilz, Senator Larson thinks the people in this Legislature are stupid. A \$500 fine levied by the packing house...they say that on the floor of this Legislature because they feel that the senators... [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR CHAMBERS: ...are not overburdened by brains. I'm not worried now about somebody coming here and shooting me. I'm worried about any of these people trying to shake hands with me. I had a different reason for not shaking then, but I got a stronger one now. I don't want any rural person, not only to not shake my hands, I don't

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want you to give me an elbow bump either. I don't want you to touch me. And somebody talked about having one of those foolproof so-and-so detectors. I need to get one to put up at my door so when they come in my office I can tell them, uh-uh, you didn't pass the smell test, you didn't pass the hygiene test, you can't come in my office and endanger the health of the lady who works with me. And she didn't know what I found out today that people don't even use toilet tissue in the rural areas because urine and manure are not a problem. [LB174]

SENATOR COASH: Time, Senator. [LB174]

SENATOR CHAMBERS: It sure is. Thank you, Mr. President. [LB174]

SENATOR COASH: Senator Schilz, you're recognized. [LB174]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. Lived in Nebraska all my life, long time, worked on the farm in the feedyard quite a few years until they got smart and sent me here; lucky you guys. So, and I'm sitting here and I'm just looking at logistics and looking at things such as that. Probably, and I couldn't find the exact numbers, but I think there's probably about 5,000 head of cattle that are harvested every day in south Omaha which equates to over 100 trucks that come in every day to Omaha to do what they do. In our research, and it's been cursory research that we've done today in looking for the cleanout facilities that are in Omaha, the one that we talked about on 36th or L Street or whatever it is, that truck washout has one bay. To me that's an issue. Even if you think that all of this is right, you have to give people the opportunity to be able to comply with the law. And if they have to travel far distances to do that, then it's not really proper to charge them a whole bunch of money for something that may or may not be their fault. Now if somebody does this intentionally, I am guessing that there are all sorts of other laws that can be brought into play. You dump it on a roadway, isn't that reckless behavior? You can probably find some law that causes them to pay for that. I think that's probably out there. The judge has the ability to charge more than a \$100 fine. That's there already. Senator Brasch, and I hope she doesn't mind, actually took the number of this truck cleanout and gave them a call. When she called, the number was disconnected. So when we talk about stuff, I see...and, Senator Smith, you're exactly right, this could be a business opportunity. We could add something to the economy of south Omaha with more truck cleanouts, if that's what we need. Maybe that's the problem. Maybe the community hasn't looked enough to see how to help the industries that are there fix their problems without passing more laws. Maybe it is just another truck wash or two or three more bays. Maybe the Legislature needs to look to incentivize that, so that we don't have to make criminals out of people. Because whether it's intentional or not, you turn around a corner and the g-forces throw manure out of the side of that truck, it doesn't say "intentional" in the law. It says "anybody that spills." I understand the problems that Senator Mello is having; I understand the problems that are going on because of this in south Omaha. But let's

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take a look at the whole totality of the picture and let's make sure that we really do understand all the issues as we move forward so that we don't put people in jeopardy that shouldn't be there. And I think that's where we'll go and what will happen if we pass this bill. You know, Senator Chambers talked a lot about the sewer separation issue; I think that's what he was getting at, the water issue. Well, I can tell you this, in our...oh, just water in general, okay, if we're talking about...and I'll just go down that path, if we're going to talk about water in the state of Nebraska... [LB174]

SENATOR COASH: One minute. [LB174]

SENATOR SCHILZ: ...I think it would have been very educational for folks to see what happened in the Water Funding Task Force that we had for four months this summer. A lot of what we talked about was water issues in the municipal areas, the metros, Lincoln, the Lincoln well fields, the sewer separation issue, all of that is important. And most of those folks that sat on that committee were rural folks and we devoted quite a bit of time to talk about the necessity of the cities getting some money...Omaha getting some money to take care of their water issues. So I hope it doesn't come down to that. And I hope that when we do bring up the water issues and the water funding that people understand how important it really is for the whole state of Nebraska. And I see Senator Chambers going thumbs down. Well, I could tell you this: water truly is the lifeblood of the state of Nebraska and we need to find out how much all of you think it's worth too. [LB174]

SENATOR COASH: Time, Senator. [LB174]

SENATOR SCHILZ: Thank you. [LB174]

SENATOR COASH: Thank you, Senator Schilz. Mr. Clerk. [LB174]

CLERK: Mr. President, I have some items, new bills. (Read LB861-870 by title for the first time.) I have amendments to be printed: Senator Cook to LB359; Senator Sullivan to LB470; Senator Cook to LB359A; Senator Mello to LB642. Name adds: Senator Pirsch to LB300; Senator Janssen to LB761; Senator Watermeier to LB814; Senator McCoy to LB811. (Legislative Journal pages 201-204.) [LB861 LB862 LB863 LB864 LB865 LB866 LB867 LB868 LB869 LB870 LB359 LB359A LB470 LB642 LB300 LB761 LB814 LB811]

Mr. President, a priority motion: The Speaker would move to adjourn the body until Tuesday morning, January 14, at 9:00 a.m.

SENATOR COASH: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. We are adjourned.