

whole number of different ways. Senator Coordsen or Senator Wehrbein talked about the situation where somebody came across the fence and was petting a cow and got trampled. Well, in that particular situation and in most of the situations that have been described today, they would not be liable under a negligence standard, which is the standard that should apply, especially now that we've changed the law of fences so that the maintaining of the fence itself is the responsibility of the owners of the trail. If the fence is poorly maintained, that liability is going to go back on the owners of the trail. But if somebody crosses a fence uninvited and trespasses onto land, I don't think that the landowner's going to be negligent in that situation; is not going to be liable. So we need to distinguish when we talk, I think, about the different situations what situation would be covered by which standard of liability, and I don't think that many of the situations that they've described are not...they're simply not situations where the landowner would be negligent under our normal standards. Thank you.

PRESIDENT MOUL: Thank you, Senator Beutler. Senator Chambers, followed by Senator Schellpeper.

SENATOR CHAMBERS: Madam President and members of the Legislature and Senator Wickersham, you have indicated that there's no connection between this amendment and any other bill and I accept exactly at face value what you said, so I see it now as not being related to anything we've discussed earlier, so I want to make that clear based on what you just said. I accept it just like you said it. But I still have to disagree with the amendment. Senator Beutler did clarify one point that I wanted to talk about so I'll be very brief. The standard by which you make somebody liable is that they fail to exercise due care, which means the ordinary carefulness that a person with ordinary intelligence should exercise to make sure that what he or she is doing does not cause harm to another person. So, Senator Wehrbein, if a farming operation is being carried on and you have employees and you carry it on in a negligent fashion, meaning you're not using the kind of care that people engaged in that operation should utilize, and you hurt your employee, you're liable. If you are conducting that operation as carefully as it can be conducted and it's legal and somebody is hurt, you're not liable under a negligence standard. The only way you're liable in that situation is if the law has created strict liability where you don't have to be negligent. There need be no fault on your part at all. If what you're doing