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Floor Debate
January 23, 2018

[LB193 LB211 LB310 LB321 LB377 LB449 LB480 LB589 LB618 LB829 LR282 LR283
LR284 LR295CA LR296]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirteenth day of the One Hundred Fifth Legislature, Second Session. Our chaplain for the day is Reverend Jeffrey Bloom from Immanuel Lutheran Church here in Lincoln, Senator Wishart's district. Would you please rise?

REVEREND BLOOM: (Prayer offered.)

SPEAKER SCHEER: Thank you, Pastor Bloom. I call to order the thirteenth day of the One Hundred Fifth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

SPEAKER SCHEER: Thank you, Mr. Clerk. Are there any corrections to the Journal?

CLERK: I have no corrections.

SPEAKER SCHEER: Thank you. Are there any messages, reports, or announcements?

CLERK: Mr. President, Health and Human Services Committee provides two confirmation reports; those reports signed by Senator Riepe. Revenue Committee will have an Executive Session at 9:30 this morning, Mr. President, in room 2022; Revenue at 9:30. That's all that I have. (Legislative Journal pages 391-392.)

SPEAKER SCHEER: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR282, LR283 and LR284. Mr. Clerk, proceed with the first item on the agenda. [LR282 LR283 LR284]

CLERK: Mr. President, LB618, a bill on General File offered by Senator Wayne. (Read title.) The bill was introduced on January 18 of last year; referred to the Transportation Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB618]

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SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Wayne, you're welcome to open on LB618. [LB618]

SENATOR WAYNE: Thank you, Mr. President. LB618 seeks to broaden the use of Transportation Network Company Regulation Cash Fund by allowing for cost associated with the administration of the fund and to carry out policies described in Section 75-301, which is the transportation network company regulation policies and legislative intent. The Nebraska Public Commission testified in support. There were no opposition testimony. The Transportation Network Company Regulation Cash Fund was created under LB629 in 2015 to be used for the regulation of TNCs and enforce the sections of the Motor Carrier Act, specific to the TNCs. The fund contains the fees remitted by the TNCs pursuant to Section 75-305 annual and initial permanent fees. Again, there was no opposition testimony. The PCS asked me to carry this bill, in part because of the regulation of their own fund. They should, at least, at a minimum be able to use the funds to pay for their own...for the regulation of this fund and the administration of this fund. Expenditures will most likely to continue to increase due to the increase regulation environment compliance with Nebraska statute and the commission rules and regulations and so this is to help them fund their operation. There is no fiscal note. There is no increased dollars or transfers of cash. This is just allowing them to use the funds, if they're already set to use for...or allowed...or permitted under the law as far as to collect. It just allows them to use it. And with that I would ask for a green vote. [LB618]

SPEAKER SCHEER: Thank you, Senator Wayne. (Visitors and doctor of the day introduced.) Seeing no one wishing to speak, Senator Wayne, you're welcome to close on LB618. Senator Wayne waives closing. The question before us is advancement of LB618 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB618]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB618. [LB618]

SPEAKER SCHEER: LB618 does advance. Next item, Mr. Clerk. [LB618]

CLERK: LB449 is a bill by Senator Chambers. (Read title.) Introduced on January 17 of last year. At that time, referred to the Agriculture Committee. The bill was advanced to General File. There are committee amendments pending, Mr. President. (AM536, Legislative Journal page 687, First Session, 2017.) [LB449]

SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Chambers, you're welcome to open on LB449. [LB449]

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SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this may be one of the least controversial bills that I will offer, but it is very important and significant in terms of there needing to be a discussion of how bad this existing law is so that these kinds of things won't get into the statute. I'm going to anticipate the committee amendment. In order to repeal an entire statute, you have to just get a repealer clause. The following sections are hereby repealed: 32, well whatever it is, and the rest of them, and that's all there is to the bill. This bill that I offered I intentionally included a provision from that group of statutes that I don't want to repeal. And the only way I could get that information into the bill that I'm offering and make it available to the senators or anybody else who is interested is to break out that particular section of the statutes and draw a line through the language that I'm purporting to repeal, which I don't want to repeal. It is a tactic that I've used in the past; notably with a bill that I had to do away with the statutes that allowed mountain lion hunting. In order to let the public and anybody else know that there were allowances in the law for lions to be killed under certain circumstances, I had to suggest in the green copy that I was repealing that language. That required that language to be in the bill that was presented. When I offered the bill, I was able to tell them to look at the bill and don't take my word for it. But there, in fact, exists right now in the law circumstances under which lions could be killed, and I would then strike that provision from my bill, because the intent was not to repeal it, but to give notice. In this example, there is a division of the USDA, it's called the...the acronym is APHIS, but it's the Animal and Plant Health Inspection Service of the USDA, United States Department of Agriculture. When this bill repeals that statute, that whole law that deals with the prairie dogs, there remains right now a means for controlling these animals. It is used and APHIS is resorted to by counties, by cities, by other entities who have infestations of certain types of animals. During the testimony that was being given on this bill, Senator Krist engaged the testifier about this very point, that even if this language is repealed, APHIS is available. And he mentioned an airport that was bothered by geese. Geese can bring down planes. And APHIS came in to work on that issue. Whenever there might be an infestation of coyotes or whatever the type of animals might be, that entity can be contacted, they will review the situation, they'll give advice, and where necessary, they will actually help to control those animals. So if you are interested enough in this bill to look at the green copy, you will see on page 2 that stricken from the type of animal that can be handled by APHIS is the black-tailed prairie dogs. But in reality, I want APHIS to do that, continue to do it as they always have. But because there is so much skepticism about what I say on the floor, I offered this section of the existing law which would strike, based on the way I drafted it, from the power of APHIS the regulation and control of black-tailed prairie dogs. The issue was raised by John Hansen when he testified on the bill in favor of the bill. He is the president or chairperson or whatever you call the head of the Nebraska Farmers Union, and he called attention to this language that would have been in the original bill taken from APHIS the authority to regulate these animals. After he was through, I pointed out that I was glad that he called attention to it and I explained why it was there. So the committee drafted an amendment, and what that amendment would do is to strike from the green copy this section of statute that I

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had included. So all that will remain is the repealer clause that strikes the entire Black-Tailed Prairie Dog (Management) Act. I cannot go into all of the detail now, but this is a bill which I will not object to having extended debate on because it shows how a statute can be drafted that tramples the right to private property, ownership rights, how property can in effect can be seized by the state without compensating the owner, how an unsupported accusation against one neighbor to the county board will get machinery in action that can lead to the county board authorizing people to go on that one who is accused, go on that land without a warrant, without any judicial process, without any involvement of the court whatsoever and these individuals are authorized under the law to use poison or whatever other means are necessary on the accused person's property. They cannot be charged with trespass. If in the process of doing this they destroy standing or growing crops, there is no liability and it's one of the most atrocious pieces of trash that I have ever seen and it was put in place during the four years when I was not in the Legislature. You won't find any of this kind of legislation that made it into the books when I was there. And some people who voted for that original bill that was brought by then Senator Loudon, he was leaving the Legislature. They admitted it was a mistake to vote for it. Senator Bloomfield stated that he did it just as a favor since Senator Loudon was leaving. There were members of the committee who can speak for themselves, at least one, who had not thoroughly read the bill and had that been done, the vote would not have been given. This is just to kind of give an overview. And if you are interested, I think it would be worthwhile to listen. If you're not interested, you will at least know why I'm offering this type of bill. How much more time do I have, Mr. Speaker? [LB449]

SPEAKER SCHEER: Two minutes. [LB449]

SENATOR CHAMBERS: Okay. I will take that two minutes to say just a little bit more. We've often heard the saying--it makes no sense to reinvent the wheel. What I intend to do, because I had done a lot of research on the bill, the statute as it existed, whatever background I could get on it, and I gave what I have to consider when I read the testimony that I gave, tolerably good testimony. So I'm going to read from it so you can see what it was that persuaded the Ag Committee to vote it out 7-1. Senator Halloran, for whatever his reasons were, is the person who voted no. And with that, I'm going to not take the last few seconds I have, but I will continue to speak as the bill moves forward. Thank you, Mr. President. [LB449]

SPEAKER SCHEER: Thank you, Senator Chambers. As the Clerk stated, there are committee amendments from the Agricultural Committee. Senator Brasch, as Chair of the committee, you're recognized to open on that amendment. [LB449]

SENATOR BRASCH: Thank you, Mr. Speaker; and good morning, colleagues. Before I open on the amendment, I want to announce that Kenneth Brummond was found this morning by the

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dredge; cold, but alive. So our prayers were answered. And I know Senator Chambers does not believe in the prayers of the higher power, but Kenneth is an outstanding neighbor, a veteran, a farmer, and a survivor now of that terrible blizzard. So thank you, colleagues. And as for AM536, the committee strikes Section 1 of the bill and the associated repealer in Section 2. As introduced, LB449 Section 1 would amend 81-2236, which currently authorizes the Director of Agriculture to cooperate with the Animal and Plant Health Inspection Service of USDA for control and management of predators, rodents, nuisance birds, and other wildlife, injurious to livestock, game and human health. As introduced, LB449 would strike express text that this authorization includes authority to cooperate for the control of black-tailed prairie dogs. I'll repeat, it does include authority to cooperate for the control of black-tailed prairie dogs. The committee amendment would in effect leave the current law unchanged. Section 81-2236 references the Wildlife Services Division of the USDA. The mission of the USDA, APHIS, A-P-H-I-S Wildlife Services, is to provide federal leadership and expertise to resolve wildlife conflicts to allow people and wildlife to coexist. The WS conducts program delivery, research, and other activities through its regional and state offices. The National Wildlife Research Center, or the NWRC, and its field stations, as well as through its national programs. The program's efforts have helped people resolve wildlife damage to a wide variety of resources and to reduce threats to human health and safety. Funding for the program is a combination of federal appropriations and cooperator-provided funds. USDA Wildlife Services typically provides services under cooperative agreements with local landowners, governments, and businesses. Cooperator agreements typically provide for Wildlife Services supplying wildlife specialists who perform controlled activities. Cooperators will typically provide funding for the salaries and the materials. There are a number of Nebraska counties that are currently cooperators with the USDA to provide for the stationing of specialists available to public and private parties including farmers and ranchers to perform or consult on mitigating wildlife damage. Airport authorities, cities, and even individual building owners may work with Wildlife Services. Game and Parks Commission has utilized Wildlife Services to temporarily control predator populations when introducing elk, deer, and antelope. This has been a rarely used authority. Consulting with the Fiscal Office and the Department of Agriculture, the Legislature has not appropriated funds, nor has the Department of Agriculture utilized state funds. And for the purpose authorized under 81-2236 within the institutional memory. However, the section as currently written to include prairie dogs would be available to the Legislature and the department to address prairie dogs should prairie dogs present a threat or a nuisance to agriculture, human life, or other wildlife. I urge my colleagues to adopt the committee amendment. Thank you, Mr. Speaker. Thank you, colleagues. [LB449]

SPEAKER SCHEER: Thank you, Senator Brasch. Senator Chambers, you're recognized.
[LB449]

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SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, and Senator Brasch, contrary to what you say, I do believe in prayer. Not for me. And I don't believe that praying changes things. Why do I say I believe in prayer? The one uttering the prayer sometimes becomes very focused on what the subject of the prayer is and it may have power to change the prayer, the one praying may be changed by the prayer's utterance, but the activities which are supposed to be affected will not be changed in any way based on my belief or disbelief. But what the "Bible" says is that God will not hear a sinner pray. But if that's true, then you couldn't get saved. So as Gershwin wrote, the things (singing) that you're liable to read in the Bible, they ain't necessarily so. And it says also discounting the prayers of women. So even if the prayers worked, yours didn't. The effectual fervent prayer of a righteous "man" availeth much. So it's good that the ladies pray. And as Abigail Adams told her husband, don't forget the ladies. We know that men, rather than being the ones whose prayers are effectual, are the ones most in need of prayer. Whether the prayers work on the part of a supernatural being or not, it may focus attention on the problems generated for women by men. And maybe women will coalesce and use their numbers. They do comprise a majority. The demonstrations that they engage in are helpful in spotlighting and highlighting a problem. But unlike minorities, such as black people, Latinos, Native Americans, women don't really have to demonstrate, all they need to do is go into the ballot place and write a vote in the correct way. And you let these men who dominate every legislative body in this country, whether it's the state legislatures or Congress, perceive that women are now voting for women's rights and in women's interests, you'd see a lot of changing. As people say, a sea change, s-e-a. They ought to look that up in the dictionary because for a while, sea change was the popular slogan of the day. But it does mean a great or remarkable or highly significant alteration in the status quo. But I felt I should take the opportunity to say that and now I'm going to acknowledge the good job...I'm not going to ask Senator Brasch any questions she did in explaining the committee amendment. I briefly touched on it. But because there are people who will read the transcriptions of what she says, what we all say, they will have not only a reason for striking the original language that I put in the bill that I'm offering, but an explanation of how the USDA works, how APHIS operates, the cooperation between the state and the federal authorities for the purpose of maintaining the health and safety not only of human beings, but of wildlife and the other things that she said. So I appreciate the fact that she gave a thorough explanation. Naturally, I'm going to vote in favor of that amendment because it will put the bill... [LB449]

SPEAKER SCHEER: One minute. [LB449]

SENATOR CHAMBERS: ...into the condition that I would like to have introduced it, which is simply to say the following sections of statute are hereby repealed and that repealer would comprise all of the statutes that make up the black-tailed prairie dog law. I'm prepared, as I'm stating again, to answer any questions that you may have. And I'm going to touch briefly on testimony given by some of the committee members that helped point out why this bill is good

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and that why the present law is not only overreaching, but totally unnecessary. Thank you, Mr. Speaker. [LB449]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator Brasch, you're recognized. Excuse me, Senator Chambers was next in line. I apologize. Senator Chambers. [LB449]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the bill came out of committee 7 for, 1 against. This bill had been introduced before. It made it all the way across and got on Final Reading and it was toward the end of the session and former Senator Davis ambushed it on Final Reading and I could not get enough votes to overcome what he did and I did not make it into an issue where I would, what people call punish the entire Legislature by affecting other bills on Final Reading. I knew I could offer it again and that's what I'm doing. But what I want to do is put some things into the record. This bill, the machinery in it that I will detail later, can be set in motion by a vindictive neighbor bringing an unsupported complaint against a neighbor with whom he or she has a dispute to the county board. My seatmate, Senator...I don't know if I ought to mention her by name, Senator Blood, mentioned that as the testimony went forward, and we saw what the bill did, it boiled down to neighbors disputing with neighbors. She gave the example of how in a city maybe one person's dog urinates in the yard of another neighbor and grass won't grow there, so it becomes a big problem and how that neighbors disputing with neighbors is something that happens not just in the rural areas, the city areas, but all over the world, which is true and that this bill was not even necessary. What could have been done was for the county board to take some kind of action to deal with the situation if they chose. And I'm not giving all of it because as I go through the transcript, I'll do more. Senator Albrecht had been a county commissioner and mentioned specifically the power of the board to pass an ordinance. Both of them were talking to the one person who spoke against my bill. He was a member of the Sheraton county board, which is the only county in the state that has this...wanted this bill...that wanted the current law and it put machinery in place, although they never used it. They used it to threaten people and intimidate them. But they had never actually made use of it in all of its onerousness and that person testified did not realize everything was in that law that I pointed out and acknowledged that the points were well made, there probably should be changes, and the worst thing...and he saw it...was not allowing any legal remedy for the one who is accused. But at any rate, he had said that there is nothing that the county board could do by way of an ordinance because they can't pass ordinances or something. And there was a bit of further exchange between him and Senator Albrecht and then he acknowledged that something actually could be done under the county's zoning laws. Well whether that's true or not, he began to have to make admissions about the fact that there is a remedy without a law such as this black-tailed prairie dog bill. It is contrary to and inconsistent with every other law that deals with property, private property, ownership of property, settling disputes between neighbors and so forth. He said that the... [LB449]

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SPEAKER SCHEER: One minute. [LB449]

SENATOR CHAMBERS: ...county board had supported the existing law by a vote of 3-0. And he acknowledged that there might have been people on the county board who wouldn't agree with what he was saying to the committee. That is all in the transcript. This again is part of that overview. I touched on the part where Senator Krist had given an example of where APHIS had helped an airport that was bothered by geese and maybe some other animals coming on the runway. I don't remember all those details. But the main point that I hope you will keep in mind if nothing else, APHIS not only was available at the time this law was put in place by Senator Loudon, remains in place, and in fact, it was APHIS that the Sheridan County ultimately turned to, to resolve that dispute. Thank you, Mr. Speaker. [LB449]

SPEAKER SCHEER: Time. Thank you, Senator Chambers. Senator Brasch, you're recognized. [LB449]

SENATOR BRASCH: Thank you, Mr. Speaker; and thank you, colleagues. I stand in support of the amendment, but I also wanted to give a little history as well on this bill. I was on the Ag Committee when Senator Loudon first introduced the bill and the testimony and his efforts were very compelling. So I did support Senator Loudon's bill to...for the prairie dogs to be controlled. I saw it as a control bill. However, since that time former Senator Bloomfield, our colleague who is a very strong proponent of individual and property rights, I thought had a stronger argument on property rights with this. And seeing that there is control through the federal and through Game and Parks and multiple layers to control black-tailed prairie dogs should they be harming and harmful and other rodents to agriculture. I do believe the amendment provides for that. I had my counsel do thorough research on this before I could support the amendment and the bill moving forward. And with that, if you do have any questions, some have come off the floor, I do understand that in agriculture that we are very leery of getting the support we need on many issues. But I believe this does not take that away from us, that basically it is saying that it's protecting property rights. But it is also saying that there are controls to eliminate any predator rodent that threatens our livestock and our property. I have no other comments on this, but it does have a very long...dating back my eight years here...history. So colleagues, please look carefully. This is a good amendment. Thank you. Thank you, Mr. Speaker. [LB449]

SPEAKER SCHEER: Thank you, Senator Brasch. Senator Krist, you're recognized. [LB449]

SENATOR KRIST: Thank you, Mr. President; good morning, colleagues; good morning, Nebraska. It's nice to see you up in the chair, Mr. Speaker. It's a refreshing change. Thank you. I want to just pipe in and let you know that Senator Chambers has brought to your attention that I spoke to the issue in our committee in terms of what the help around an airport sometimes needs.

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Waterfowl was indeed the issue that I brought up, that you don't necessarily want to get somebody out there to shoot everything. And they had taken the necessary action to move their food source and then control the infestation and, in fact, waterfowl are extremely dangerous to airports and airplanes. A 20-pound goose decided that he wanted to try to come in the cockpit with me one day and shattered the window and that was not a pleasant experience. But I, like Senator Brasch, have had this issue in my time here in the Legislature in ten years. We dealt with it with Senator Louden. We heard from Senator Bloomfield. I'm not sure what other discussion we really need to have because the remedy for the initial problem that Senator Louden brought to us many, many years ago was already in place. That remedy is there, and in any county in the state can obviously use it, as Senator Chambers has adequately described. I'd ask you for your green vote on both the amendment and on the bill and that we right a what I think is an inconsistency within our legislative history and how we dealt with this issue when Senator Louden brought it forward. So green on AM536 and also on LB449. Thank you. [LB449]

SPEAKER SCHEER: Thank you, Senator Krist. Senator Chambers, you're recognized and this is your third time on the amendment. [LB449]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, Senator Brasch did mention comments made by our former colleague, Senator Bloomfield, and it just happens that I have the transcript of his remarks. I'm reading from the transcript. Here is what Senator Bloomfield said and it's a good sendoff: Do what you will on your property. You don't have the right to come on mine to kill animals I may choose to have there, colleagues. I was around four years ago when the Ag Committee...with the Ag Committee when this bill passed. Talking about Senator Louden's bill. I questioned at that time the invasion of property rights. I ended up supporting the bill to put the law in place in part as a favor to Senator Louden who was in his last year here. I was mistaken in doing so. Oops. I made a mistake. That's never happened here before to anybody, but it does happen. LB128, which was the number of the bill, is an effort to change that mistake that we made. LB128 was the bill I had offered to do what this one does. It needs to happen. Most of us in here own a little piece of property somewhere and we don't want the state or the federal government coming in telling us everything we should do. How high do we cut our grass? Cities do that. I can't live in the city anymore because I can't have anybody tell me how tall my grass should be. And by the way, prairie dogs keep the grass cut. They like to have open space so they can spot predators, so the grass is not allowed to grow more than maybe a half an inch where prairie dog towns are located. That was my digression. Back to what Senator Bloomfield was saying: I also cannot have the county telling me that they have the right to come in and poison animals on my property. Senator Chambers has said he wasn't going to speak on this anymore. I wonder if he would be willing to yield to a question, and then it's proceeded from there. He asked me a question, I went on. But I was just relating what Senator Bloomfield had pointed out. Members of the Legislature, when I'm allowed to be collegial, I will be that. But when it comes to the integrity of the Legislature as an institution, the integrity of our

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body...as a law-making body...then collegiality has nothing to do with it. We put things into the law. Those things represent the power that the state is going to wield against citizens who have no idea some of the types of bad bills that become the law. And when we look at a law, we must look at what is allowed to be done under it. If it is never used, but it would say that a person who steals a billfold shall have the hand that stole the billfold cut off, maybe that would never be used, but a civilized society would not put such a thing in its law. This prairie dog law that's on the books is horrendous and I shall, once we adopt this amendment, give some of the things that are allowed to be done under that horrendous legislation and the county... [LB449]

SPEAKER SCHEER: One minute. [LB449]

SENATOR CHAMBERS: ...that sought it, which is Sheridan County, and the law was in place, did not carry through on all the things that it allowed because it was so horrendous, and guess who they turned to...APHIS...the remedy that was there all the time. The remedy that will be there when this bad law is taken off the books. There was also some indication by this county board member that the bill that Senator Louden got gave cover to the county board members so that their reelection might not be affected when these bad things were done. They could say the state did it and that was touched on by one of the members of the committee during the hearing. Thank you, Mr. Speaker. [LB449]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator Hughes, you're recognized. [LB449]

SENATOR HUGHES: Thank you, Mr. President. Good morning, colleagues. I was wondering if Senator Chambers would yield to a question? [LB449]

SPEAKER SCHEER: Senator Chambers, would you please yield? [LB449]

SENATOR CHAMBERS: Yes, I will. [LB449]

SENATOR HUGHES: Senator Chambers, who brought you this bill? [LB449]

SENATOR CHAMBERS: Who did what? (Laughter) [LB449]

SENATOR HUGHES: Who brought you this bill? [LB449]

SENATOR CHAMBERS: Me this bill? [LB449]

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SENATOR HUGHES: Yes. [LB449]

SENATOR CHAMBERS: I was reading the statute and I discovered it. And I said, something has got to be done. Not by somebody else, but by me because I was the one who became aware of it. [LB449]

SENATOR HUGHES: Thank you, Senator Chambers. Colleagues, it's deja vu all over again, whether it's motorcycle helmets or whatever. For those of you who have...don't have experience with range land, more specifically in the western end of the state, I've got a couple of neighbors who have small patches of pasture. They're 15, 20 acres, maybe 40 acres. And they're not willing to control their prairie dogs. They think it's nice having that wildlife out there. And that's okay, as long as they stay on their property. But when they begin to infringe upon my property and begin destroying my crops, then I have a problem. And it doesn't matter what the crop is, they will move out, dig holes; and as Senator Chambers indicated, they eat it off to the ground. We need to have the ability to control a pest, and that's what prairie dogs are, they are a pest, a very resilient pest. But we need to have the ability to control that pest on our property when the town is on other adjoining property. They're very destructive. I don't have livestock, but they are infringing upon my crop land. They take out my wheat crop. If you've ever been to a prairie dog town, you'll see that. And I've got another neighbor that his large wheat field has been totally infected. And I can't believe he's standing by and not wanting to get some control of that. I don't know if he doesn't understand how invasive that's going to be, how much that's going to cost him. But this is the difference between reading in a book about prairie dogs and actually going and seeing the destruction that they cause. It's very important for this body to understand and be educated on what these issues are. If you have a pasture, range land, and towns can be hundreds of acres, and if you happen to be adjoining that and they are always expanding, they're very prolific at expanding their population, they don't care where the property line is. They don't care where the fence line is. They're just trying to do what they do and it's very detrimental to the economic well-being of the person that they're being infringed upon. They're very hard to control. I've got one neighbor, he's looked at several different ways to do that. I know the last time we talked about this, Senator Jerry Johnson was Chairman of the Agriculture Committee and his daughter lives just up the road from me. They did a very good job of controlling the prairie dogs in one of their pastures and they were gone for maybe a couple of years. They're back now. At least they are willing to control and not allow them to go to their neighbors. But we have some individuals who are not willing to control this pest. [LB449]

SPEAKER SCHEER: One minute. [LB449]

SENATOR HUGHES: I think it's very telling that this law has only been used once in the state of Nebraska. It's only had to have been used once or certainly not unwonted authority being used to

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enter people's property. As far as Senator Chambers said, you're entering the property and trampling on your crops to try and control the prairie dogs, well, the prairie dogs have already taken out your crops before anybody is out there trying to control them. So I would certainly urge my colleagues to oppose LB449. Thank you, Mr. President. [LB449]

SPEAKER SCHEER: Thank you, Senator Hughes. Senator Krist, you're recognized. [LB449]

SENATOR KRIST: Thank you again, Mr. President; and good morning again, colleagues and Nebraska. I wonder if Senator Hughes would yield to a couple of questions. [LB449]

SPEAKER SCHEER: Senator Hughes, would you please yield? [LB449]

SENATOR HUGHES: Of course. [LB449]

SENATOR KRIST: So let me see if I understand, the law as Senator Louden put it into place is absolutely required so that you can maintain your neighbor's prairie dogs staying on your neighbor's property. Is that your contention? [LB449]

SENATOR HUGHES: My understanding of his law is you have the ability to ask the county to come in and control your neighbor's prairie dogs if they are not willing to control them. [LB449]

SENATOR KRIST: So rather than the county, what Senator Chambers is proposing is what has been in place since god was a corporal, and that is that you would engage that agency that is in the business of controlling pests, not your county that you're paying county taxes to. That agency is capable of maintaining the same kind of control for your property, keeping your neighbor's prairie dogs on their property. I just wanted to make sure that you understand the clarification. What we're talking about here is not interfering with your right to take your .22 and shoot a prairie dog. That's your property, you can do whatever you want to do on that property, including hunting deer or anything else that comes on your property. We all know that. This is simply a clarification saying that rather than asking the county, which really, unless you live in Douglas County, when we have a humane society, there really isn't any other pest control for us with cats and dogs and those kinds of things, except that humane society. I'm not sure you have a humane society in Venango, but I think that the point I'm making is you have a remedy in place and that agency is more than capable of keeping your neighbor's prairie dogs on their property and not yours. So I'm not sure where your logic is going with this. So would you share it with me one more time, please? [LB449]

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SENATOR HUGHES: I'm more interested in getting the results quicker rather than later, and I think I have a better opportunity to get faster results going through the county than trying to go through the federal government. As far as cost to the county, I believe the county does get to assess the offending property taxpayer for the cost of the remedy. [LB449]

SENATOR KRIST: And therein lies good fences make good neighbors and the county would arbitrate in terms of your neighbor and you. And when Senator Loudon brought that to the floor, we all went, hooray. We want to make sure good fences are up there, good neighbors are there, and we put that responsibility on the county, and we had this missing piece of information and that is that that federal agency, which is essentially located in most of the regions around the state, was also capable of doing that. So it is a duplication of effort to have the county involved with. Again, my opinion. My opinion is that there are ways that are substantiated. They've been tried and true tested. And that agency is capable of doing the same thing. So thank you, Senator Hughes, for your indulgence. Colleagues, I just want you to understand that this is taking an unfunded mandate away from your county and putting it back on the agency to do what needs to be done to control the infestation of the animal. It doesn't in any way keep you from having target practice on the varmints as they cross across your property. But there is an agency set up, has been, will always be there to handle the infestation and to handle the varmints that come onto your property. How much time do I have left? [LB449]

SPEAKER SCHEER: 45 seconds. [LB449]

SENATOR KRIST: I would have yielded to Senator Chambers, but he wouldn't know what to do with 45 seconds. [LB449]

SPEAKER SCHEER: Thank you, Senator Hughes and Senator Krist. Senator Harr, you're recognized. [LB449]

SENATOR HARR: Thank you, Mr. President. Would Senator Hughes yield to a question? [LB449]

SPEAKER SCHEER: Senator Hughes, would you please yield? [LB449]

SENATOR HUGHES: Of course. [LB449]

SENATOR HARR: Thank you. I'm confused. Is it illegal to have prairie dogs on your property? [LB449]

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SENATOR HUGHES: I don't believe so. [LB449]

SENATOR HARR: Okay. Thank you. Think about that. It's not illegal to have prairie dogs on your property. But this bill...well, not this bill, the law as currently written, says that county people can come on your property without a warrant. You're doing something illegal, you're selling drugs, it takes a search warrant to come on your property. You're doing something legal, no search warrant. Where are we going with this, people? This is a well-intentioned bill if you believe prairie dogs are a problem. And I'm not here to debate that. But what about property rights? I have fought this bill since Senator Louden brought it, who I am sure without a doubt is watching this and he knows I think this is about property rights. Why am I gonna let that government come on my property and tell me, hey, do you know what you're doing? Well, yeah, it's legal. But we're going to stop you, and we're going to go...and we're going to control this. This is wrong, absolutely wrong. And then on top of that, we are taking an animal that is indigenous to this area, who serves a purpose in our environment. Now, it may be against some of what we're currently using that property for, but it serves a purpose. It collects that rain water. It helps stir up the soil. It has a reason for existing and our environment has evolved around that. Now we come in and we say, you leave. We don't want your kind around here anymore. I think we did that to another race, didn't we? We thought that was wrong. Senator Groene liked that one. Folks, this is a part of who we are as a state. Maybe if I were around for another year, I'd bring it as our national...our state animal. Maybe we could put it on our state flag, I don't know. But this bill is a good bill. We have prairie dogs for...and it's legal. And if I want to keep a prairie dog on my property and it's not going on your property, why do we allow a state government entity onto our property without a warrant. I've yet to hear a public policy reason for that. And when they came for the prairie dogs, no one was there. What's next? What's next, folks? What next are we going to let the government come onto our property for that's completely legal, but that maybe one part of the state likes and one part of the state doesn't like. I'm going to support the bill. I'm going to sit back and listen to it. But folks, at the end of the day this is about property rights, property rights, property rights. And decide where you want to be on that issue. Prairie dogs, red herring. We're suppose to not...I get...but pay attention to what we're really doing and what this Legislature already has done. [LB449]

SPEAKER SCHEER: One minute. [LB449]

SENATOR HARR: We have given away our property rights. The fundamental essence of a free society to do what you want on your property as long as it is legal. And no one denies having prairie dogs is legal. This is the essence. When we give away property rights, when we start telling people what they can and can't do that is legal and stop them from doing it on your property, what's next? So think about it, if you really believe in less government, you should be supporting this bill. Thank you, Mr. President. [LB449]

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SPEAKER SCHEER: Thank you, Senator Harr. Senator Brewer, you're recognized. [LB449]

SENATOR BREWER: Thank you, Mr. President. I would like to start by saying that I could not disagree with Senator Harr more. Let's, just for a second, understand that this is a rural versus urban issue, because those of us that have lived with the prairie dog understand how they can completely decimate an area. Let me give you an example, growing up on the Pine Ridge, there was an area called Kooney (phonetic) Table. Kooney (phonetic) Table had tens of thousands of prairie dogs. It looked like a moon scape. And the government came in and poisoned them and it wasn't long that the grass came back and we could put buffalo on there and have a normal place. And the issue with prairie dogs is much like wind energy. Everybody wants to support wind until they want to stick a wind tower in your backyard, then you don't support wind anymore. It's the same thing with the prairie dog. Property rights, let's talk for a second about APHIS. What that is is a USDA animal health inspection service. So what you have to do is you have to go to the federal government to get help if you have a bad neighbor who wants to have the...how was it put?...not illegal prairie dog on your property. The problem is if you don't want to sit on the edge of the property and shoot every prairie dog that comes across there, they're going to come. You have no way to control 24/7/365 when a prairie dog comes on your property. So I understand people's passion to want to help this poor little innocent animal. But the reality of it is, they bring with them disease; they bring with them destruction of the property. Now, the only way that you can use the USDA capability is if your county passes an ordinance. Right now, there's one county that has an ordinance and that's Sheridan. So again, we're not getting the truth on all this. So all I would ask you is to make sure you understand the facts on this. I agree with Senator Chambers, this was a poorly written bill. But the concept is not bad and the need is there. And if you're like myself and you have to represent from Basset almost to Wyoming, from South Dakota to North Platte, then you better stand up and speak up on this issue, because it is a critical issue. And the people that elect you are very dead set on this. There is not a gray area here. Out there a prairie dog is seen as what it is, harmful. Thank you, Mr. President. [LB449]

SPEAKER SCHEER: Thank you, Senator Brewer. Senator Friesen, you're recognized. [LB449]

SENATOR FRIESEN: Thank you, Mr. President. I'll apologize for not being here for the start of this debate, but when...you know, Senator Harr talks about property rights and allowing people to come on your property, basically as this...currently the way things are done is it would be the same law that happens in the residential areas when we have someone living there that likes to collect a lot of junk and the neighbor doesn't like that junk and eventually the city has to come in and mediate and they come in on your property and clean it up. That's what happens in communities. I've been there. So, the same kind of rules apply here, if the prairie dogs continue to cross fence lines, you are tasked with continual project of trying to get rid of them, and yet, your neighbor is unwilling to control them. And we don't have prairie dogs in our area, obviously, because of the cropping that we do, we don't have much pasture. But there is a town

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of prairie dogs probably about 10 or 15 miles from where I farm. And I have driven by there and I've looked at what they have done to the land there, and they have pretty well destroyed it, there's no grass left, there's just mounds for prairie dogs. But the guy wants prairie dogs there and they're not leaving that area because they're being farmed around, so they don't like it when you come in and destroy their borrows so they've stayed pretty well on that property. I have found a few signs of them around my area, but they're not big mounds. So I look at this property rights issue and it is a property rights issue. But we do this all the time. This isn't something unique. We do it in weed control; if you have musk thistles or noxious weeds, the county can come on your property and spray them and take care of it. This I look at as no different. Yes, prairie dogs are not illegal. I get that. But the damage they cause to a neighbor when they migrate across that fence line causes serious damage. And it can impact land prices and property values. No different than having a junk yard in the middle of town when your neighbor wants to collect things that makes it unsightly and your property values go down. That's why we have nuisance laws and we go in on your property and we clean it up and we forbid you from doing that again. So we cross property rights values a lot. And again, this isn't a big issue in my area, but I look at this as a way that I don't think it's used a lot, but it gives counties a tool that they can use to help control prairie dogs in their area. Thank you, Mr. President. [LB449]

SPEAKER SCHEER: Thank you, Senator Friesen. Senator Krist, you're recognized. And, Senator Krist, this is your third time at the mike on the amendment. [LB449]

SENATOR KRIST: Okay, thank you. Thank you, Mr. President; again, good morning, colleagues; good morning, Nebraska. I just listened to Senator Friesen and I do understand his concern and his point. But as a matter of record and history, there is only 1 out of 93 counties that have used this in the time that this law has been in place. There are over 40 of our counties that have used the other remedy to handle infestation of varmints in one way or another. The next time somebody gets up here and says I don't like unfunded mandates for your counties, I want you to realize this is a duplication of effort, it comes out of the pocket of your county and your county taxpayers and no one is begrudging you standing out there with a .22 and picking off prairie dogs, or doing what you need to do on your property to maintain. This was a remedy so that two neighbors didn't have to talk to each other, they could pick up the phone and call the county and say--my neighbor is not doing what he's supposed to be doing. It's a ridiculous law. I don't know why I voted for it to begin with, but I think it needs to be changed. And I would say that the remedy is already there. We talked about it many times. I yield the rest of my time to Senator Chambers if he would like it. [LB449]

SPEAKER SCHEER: Senator Chambers, 3:35. [LB449]

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SENATOR CHAMBERS: Thank you Mr. President; thank you Senator Krist. I'll start with Senator Friesen by asking him a question, if he will yield. [LB449]

SPEAKER SCHEER: Senator Friesen, would you please yield? [LB449]

SENATOR FRIESEN: Yes, I would. [LB449]

SENATOR CHAMBERS: Senator Friesen, have you read the black-tailed prairie dog law? [LB449]

SENATOR FRIESEN: I did a couple years ago, I haven't read them recently. [LB449]

SENATOR CHAMBERS: All these other remedies you talked about, they require legal process. Are you aware of that? [LB449]

SENATOR FRIESEN: Yes. [LB449]

SENATOR CHAMBERS: Are you aware that before...okay, that's all I'll ask you, because it will take my time. I would like to ask Senator Hughes a question. [LB449]

SPEAKER SCHEER: Senator Hughes, would you please yield? [LB449]

SENATOR HUGHES: Of course. [LB449]

SENATOR CHAMBERS: Senator Hughes, have you read the black-tailed prairie dog law? [LB449]

SENATOR HUGHES: Yes, I have. [LB449]

SENATOR CHAMBERS: Are you aware that in order to go on anybody else's property now there has to be a legal process involving the court before that can be done, even by the sheriff? [LB449]

SENATOR HUGHES: Yes. [LB449]

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SENATOR CHAMBERS: Are you aware under the black-tailed prairie dog law that is not required, there is no court action required? There's no warrant, are you aware of that? [LB449]

SENATOR HUGHES: I need to re-read that law. [LB449]

SENATOR CHAMBERS: Thank you. And I've read it and it's a bad law. When people speak in generalities, even Senator Brewer made a statement in favor of this bill, the government poisoned those prairie dogs out there. It was land that apparently belonged to no individual. It got rid of the prairie dogs. APHIS knows how to use poison. They know how to keep it from going where it should not go. They know how you pick up carcasses at the end of every day. They know that prairie dogs are what are called keystone animals, other animals rely on them. There are raptors, or birds of prey, which eat them--hawks, eagles, and some people don't like them. Eagles take more livestock, by the way, than mountain lions. But you can't kill an eagle. But anyway, the secondary poisoning kills the raptors. Secondary poisoning happens whenever other animals that prey on prairie dogs eat a poisoned carcass. There are other animals, mammals and reptiles, which use and live in the burrows of prairie dogs, even the black-footed ferret which is on the endangered species list. And Nebraska has a specific statute that says any animal on the federal list is also on the Nebraska list. And black-footed ferrets live with prairie dogs. If you poison inappropriately, you are killing an endangered species. These are things that are known. APHIS isn't the only one you can go to. You can talk to the Game and Parks Commission. I don't live in the rural areas, I read the law. You can get a depredation permit from Game and Parks to take care of critters on your land. You can do it yourself. I'm going to have to explain something about the origin of private property rights. Not looking down at anybody... [LB449]

SPEAKER SCHEER: Time, Senator. [LB449]

SENATOR CHAMBERS: Thank you, Mr. President. [LB449]

SPEAKER SCHEER: Thank you, Senator Krist, Chambers, Friesen, and Hughes. Seeing no others in the queue, Senator Brasch, you're welcome to close on the committee amendment, AM536. Senator Brasch waives closing. The question before us is the adoption of AM536 to LB449. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB449]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB449]

SPEAKER SCHEER: Mr. Clerk, items. [LB449]

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CLERK: I do, Mr. President, thank you. Hearing notices from the Banking, Commerce and Insurance Committee, three different notices; Urban Affairs also hearing notice, as well as the Education Committee, those signed by the respective chairs. Amendment to be printed: Senator Harr to LB310. Enrollment and Review reports LB193 and LB377 to Select File, both having Enrollment and Review amendments attached. (Legislative Journal pages 392-394.) [LB310 LB193 LB377]

SPEAKER SCHEER: And by the way, I forgot to announce that AM536 was adopted. Mr. Clerk for an item. [LB449]

CLERK: Mr. President, Senator Larson would move to indefinitely postpone LB449. Senator Chambers, you have the option to lay the bill over or take it up. [LB449]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm not going to waste the body's time by arguing at length on his motion, but it will give us an opportunity to see... [LB449]

SPEAKER SCHEER: Senator Chambers, Senator Chambers... [LB449]

SENATOR CHAMBERS: Yes. [LB449]

SPEAKER SCHEER: ...excuse me, you'll have an opportunity to respond, but he would get to open on his motion first. [LB449]

SENATOR CHAMBERS: Okay. [LB449]

SPEAKER SCHEER: Senator Larson, you're welcome to open on your amendment. [LB449]

SENATOR LARSON: Thank you, Mr. President. I'll be short for the body. I agree with Senator Hughes and everything that he said. These are an infestation. Whether or not the original prairie dog law is perfect, repealing it outright, as we just did with the Agriculture Committee amendment, is not what needs to happen. If anything, this needs to go away, and if Senator Chamber wants to reintroduce it next year, which he'll be here to do, and fix the specific issues that he would like, that's fine, but repealing it outright and taking this tool away from the counties, and specifically, you know, in rural Nebraska one of the things that we continually deal with are absentee landowners that don't take care of anything. So in the end, I just...with the committee amendment adopted, I cannot support LB449 and I would ask you to adopt motion, MO183. Thank you, Mr. President. [LB449]

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SPEAKER SCHEER: Thank you, Senator Larson. Senator Chambers you're now recognized. [LB449]

SENATOR CHAMBERS: Thank you, Mr. President. I would like to ask Senator Larson a couple of questions before I proceed. [LB449]

SPEAKER SCHEER: Senator Larson, would you please yield? [LB449]

SENATOR LARSON: Yes. [LB449]

SENATOR CHAMBERS: Senator Larson, have you read the black-tailed prairie dog law? Have you read it? [LB449]

SENATOR LARSON: I would have read it when I was in the Legislature and I think we passed it in my first year, but I haven't read it since. [LB449]

SENATOR CHAMBERS: Senator Larson, okay... [LB449]

SENATOR LARSON: So it's been eight years. [LB449]

SENATOR CHAMBERS: ...you answered...you answered the question. Are you aware there are other rural counties that have prairie dogs in them? [LB449]

SENATOR LARSON: There are a lot of rural counties that have prairie dogs, yes. [LB449]

SENATOR CHAMBERS: Yet only one county, Sheridan County, has threatened to use this law. Are you aware of that? [LB449]

SENATOR LARSON: I'll take your word for it. [LB449]

SENATOR CHAMBERS: Thank you. As a matter of fact, Box Butte County had a member of the county board who attended some meetings in Sheridan County and heard them discussing this law that Senator Louden got, and thought it might work in Box Butte County. As it turned out, they never resorted to it. What Senator Hughes does not know apparently is that this law was not used, it was not put into operation with all of the horrendous things that can be done, even in Sheridan County. The man who testified against the bill was a member of the Sheridan County board. He stated that they had to threaten to use this law that Senator Louden got because the

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man whose property the offending prairie dogs lived was not willing to cooperate. Whatever that meant. So they threatened to use the law. And they said, at the county board, they had to use the law because under the law they could assess the property of the landowner who was accused and get some money to pay somebody to go on that person's land and poison prairie dogs. The one they wanted to do the poisoning would not be paid and furthermore, didn't want to go on the land because he had a dispute with that particular landowner. That's where this came from. Senator Larson doesn't know it. Senator Friesen doesn't know it. Senator Hughes does not know it. But if these few uninformed comments persuade you all that a bill, which is designed to rectify a bad situation should be killed, then you'll vote with him to kill it. I'm against his motion. There should be an intelligent, knowledgeable presentation as to why a bill should be killed. When I have gone after Senator Larson's bills, I discuss in detail what was wrong with the bills. I don't believe he read the black-tailed prairie dog bill. He couldn't have read it and said he goes for it. What that allows is for an unsupported complaint by property owner A against property owner B, his neighbor. That can move from an unsupported claim to a criminal action filed by the county attorney which can lead to the assessment of \$1,500 against the one complained against because he didn't take action within 15 days. [LB449]

SPEAKER SCHEER: One minute. [LB449]

SENATOR CHAMBERS: Now not only is it a criminal law, but an assessment against his property. It gains interest as any tax assessment would and his property can go into foreclosure if he refuses still to pay off. That is crazy and it happens nowhere else in any law. A civil matter becomes a criminal matter without any court involvement anywhere along the way. I'm suggesting that you vote against Senator Larson's motion, but to make it easy on people who want to find a reason to kill this bill, it only takes a majority of those voting on General File to kill a bill. But before that vote is taken, I'll ask for a call of the house. Thank you, Mr. President. [LB449]

SPEAKER SCHEER: Thank you, Senator Chambers and Senator Larson. Senator Krist, you're recognized. [LB449]

SENATOR KRIST: Mr. President; again, good morning, colleagues; good morning Nebraska. Wonder if Senator Brewer would yield to a question. [LB449]

SPEAKER SCHEER: Senator Brewer, would you please yield? [LB449]

SENATOR BREWER: Yes. [LB449]

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SENATOR KRIST: Senator Brewer, I'm not picking on you, I just don't think I'm going to get a straight answer from anybody else I would ask this from and I know that I'll get one from you. You come home one day and drive in your driveway and look at the miles and miles across the prairie that is your property and you see someone on that property doing something, what is your first inclination? [LB449]

SENATOR BREWER: To find out who it is and why they're there. [LB449]

SENATOR KRIST: Okay. And you're a reasonable guy, so I would expect you would get on your four-wheeler or horse and ride out there and say--what are you doing on my property. Is that a reasonable assessment? [LB449]

SENATOR BREWER: That is correct, sir. [LB449]

SENATOR KRIST: Okay. And when you get there, you find out that he is actually poisoning prairie dogs on your property and you, I would have to say, are a peace-loving guy who loves little varmints, but you didn't order this to happen. Then what would you do? [LB449]

SENATOR BREWER: We would have a discussion about why he didn't talk to me before he did it. [LB449]

SENATOR KRIST: Okay. Thank you Senator Brewer, I appreciate your honesty and I do appreciate you entertaining my questions. Folks, this is what happens with this bill. Someone unannounced, because of a complaint, comes on your property, no matter where you live, and starts poisoning something in your ground or around your property. That's what this law allows that person to do. No notice, no official legal action, and all of a sudden you've got a guy on your property...or a young lady on your property trying to kill things. Kind of sounds like somebody that wants to use the death penalty, doesn't it. So the worst thing that could happen is Senator Brewer is a reasonable man who would go out and have a conversation. The worst thing that could happen is somebody standing up and taking a pot shot with his .30-06 at somebody who is trespassing on his property. And I don't know the answer because Senator Harr is not here to answer it...there's no other...I can...Senator Chambers, will you yield to a question? [LB449]

SPEAKER SCHEER: Senator Chambers, would you please yield? [LB449]

SENATOR CHAMBERS: Yes, I will. [LB449]

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SENATOR KRIST: In the situation that I've described, if a person is trespassing on your property and you choose a remedy that is basically taking a shot at them, are you guilty of anything? [LB449]

SENATOR CHAMBERS: Well, I think any time some action is taken, it must be suited to the offense that is being dealt with. And I'm not sure that a person could kill another person merely for trespassing. [LB449]

SENATOR KRIST: How about just maiming them? [LB449]

SENATOR CHAMBERS: You might face some kind of legal action even if ultimately it may be dismissed, but I would not attempt to answer definitively that question. But you could take action to expel that person from your land. [LB449]

SENATOR KRIST: Thank you, Senator Chambers. Why are we putting ourselves in this position? Why are we enabling people to be sensible like Senator Brewer or crazy like I know some of you know people are? The remedy to having somebody trespass on your property is to expel them from your property. Why would we want to put people in that position? Why not just pick up the phone and call the agency that can give you a remedy and say I need to control my neighbor's prairie dogs, take the necessary action? [LB449]

SPEAKER SCHEER: One minute. [LB449]

SENATOR KRIST: We've had all kinds of debate on this issue for ten years. And now we want to indefinitely postpone it and send it back to Nirvana and we want Senator Chambers to come back with another hearing? I have an incredible amount of trust for standing committees to do their job. And we're saying in this particular case that the four or five hearings and the issues that have been brought up in the Agriculture Committee over a period of years is null and void, we should send it back to some place. I cannot support the indefinite postponement. I think it's ludicrous. I think we should vote this up or down and be done with it. Thank you, Mr. President. [LB449]

SPEAKER SCHEER: Thank you, Senator Krist, Brewer, and Chambers. Senator Brasch, you're recognized. [LB449]

SENATOR BRASCH: Thank you, Mr. Speaker; and thank you, members, for your support on the amendment. Currently, I have asked my legislative aide to make outbound calls to numerous conservation officers that work within Game and Parks to see the question I have is how many

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calls are they receiving on prairie dog issues and what are they lawfully doing about it. At this point no one is commenting back. I think they need to call Game and Parks first to speak. But at this point, I would like to wait. I would like to see...I'm looking at the map here at all the officers, it is one county that this has been valuable to them and I think that's important, even if it's one county. And the reason I'm saying that today, especially is I am hearing so many bills and different issues of--well it doesn't affect me. High ag land values don't affect me. Irrigation does not affect me. I think we need to work together on an issue. I would like to get more feedback at this point. I have heard that the bill itself is poorly written. I have heard that. I'm getting a lot of feedback. And that is one of the reasons I did vote for this bill, not only for Senator Bloomfield in his constant diligence for individual property rights and individual rights, but I also wanted to open it to floor debate. I, when it comes time, after the call of the house to vote, I don't know that I am prepared to vote one way or the other yet after the feedback I have been getting from rural senators, which I am Chair of the Ag Committee, and I'd like to have feedback from the conservation officers, those individuals who we will entrust to carry out any concerns or complaints that would damage property, that would cause risk to livestock and others. But I did want to stand and speak on it because we have had good conversation. And Senator Krist is correct, that this has been an ongoing dialogue. Something is broken and I'm not sure where. Thank you, Mr. Speaker. Thank you, Senator Chambers; and thank you, colleagues. [LB449]

SPEAKER SCHEER: Thank you, Senator Brasch. Senator Larson, you're recognized. [LB449]

SENATOR LARSON: Thank you, Mr. President. I think I needed to stand up and correct some statements that Senator Krist was making, specifically in his example with Senator Brewer, because it was wrong. Notice, if you read the Black-Tailed Prairie Dog (Management) Act, the county board does need to give notice to that landowner. That landowner then has 60 days to come into compliance. It mirrors a lot of the noxious weed act; not completely, but that landowner then has 60 days to comply. And then they can still dispute that and request a hearing in front of the county board. So the idea that Senator Brewer or an individual just finds somebody on their land without notice or anything else is wrong. They have to go through the notice. They have the ability to comply. They have the ability to request a hearing. It's not that these people will just show up and be on your land. So I think that's an important point as we run through this debate to understand that notice is still given to the landowners and there is the ability to comply. And they have the ability to comply or dispute and have a hearing. And even before, it is my understanding, in Section 23-3801, that they give another 48 hours of written advance notice of the entrance that will be provided...the entrance that will happen onto the property. So, colleagues, it's not that they just show up and you won't know. Senator Brewer won't have to go out and...he might still take the four-wheeler out and ask them who it is or what not, because maybe he didn't get the notices, but the county has to provide the notices per the state law as it currently is. Thank you, Mr. President. [LB449]

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SPEAKER SCHEER: Thank you, Senator Larson. Senator Brewer, you're recognized. [LB449]

SENATOR BREWER: Thank you, Mr. President. All right, again, there's always lessons to be learned and I constantly thank Senator Chambers because the inevitable mistake that we make is that we don't read through the bills like we should and we don't understand as well as we should. So for that, thank you sir. Now, on the issue of the prairie dog bill, if you go to that Chapter 23-3803, that's where it talks about the county needing to pass an ordinance. So right now we have only one county that that applies for, again that's Sheridan. The question that I asked the number two guy at Game and Parks, Tim Gay, was are you going out and enforcing this law? And they are not. That is not part of their to do list. So, again, we're back to the APHIS, the USDA and that being that sole source they go to because right now that's the only option we have to actually enforce. So again, there's a lot of gray area, there's a lot of confusion, and that's why I guess I would support holding off until we better understand this bill before we vote. Thanks. [LB449]

SPEAKER SCHEER: Thank you, Senator Brewer. Senator Morfeld, you're recognized. [LB449]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, as discussed by some of my other colleagues, this bill has been debated, it has been discussed for ten years now. It's what my friends and I call a plain bagel. It's time to move on. I will vote against the indefinitely postpone motion and vote for the bill. Thank you. [LB449]

SPEAKER SCHEER: Thank you, Senator Morfeld. Seeing no others in the queue, Senator Larson, you are welcome to close on your IPP motion. Senator Larson waives closing. The question before us is IPP of LB449. Senator Chambers. [LB449]

SENATOR CHAMBERS: I would ask for a call of the house, then I'll take a machine vote. [LB449]

SPEAKER SCHEER: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor please vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB449]

CLERK: 24 ayes, 3 nays, Mr. President, to place the house under call. [LB449]

SPEAKER SCHEER: 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 Morfeld,

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could you check in, please. Senator Clements, would you check in, please. Senator Linehan, the house is under call, please return to the floor. We're all here and accounted for. There's been a request for a roll call vote in regular order. Mr. Clerk. [LB449]

CLERK: (Roll call vote taken, Legislative Journal page 395.) 14 ayes, 21 nays, Mr. President, to indefinitely postpone. [LB449]

SPEAKER SCHEER: Motion is defeated. I raise the call. Moving back to discussion on LB449. Senator Chambers, you're recognized. [LB449]

SENATOR CHAMBERS: Thank you. Members of the Legislature, if there are those who feel that this bill is worthy to be discussed, I can only speak three times. After my third time, if anybody would give me time should I need it, I would appreciate it. This is going to go to the integrity of the system. First of all, somebody gave Senator Larson some information that he could use about notice. That is an area I intend to touch. But if I am in a legal process, for example, I sue you. I have to give notice. But it has to be proof by me that you were served that notice. There has to be proof. There's no need that any proof exists that the county board gave notice. It can be personal or it can be in a newspaper. It may not be either one and all the county board has to do is say--we gave notice. Well, do you have proof? Well, we mailed it. Did you send it by certified mail? No. So then there's no proof you gave notice? No, there isn't. But I'm going to go through this. And those who are trained in the law, or who respect the law, you will see that this bill...this current law is inconsistent with all other laws. And I said I would read from my presentation to the Ag Committee, and I'm reading from the transcript of the February 14, 2017, hearing: There could be a dispute between two neighbors. All that neighbor has to do is go complain to the county board and say my adjacent neighbor has prairie dogs that came onto my property and that puts the wheels in motion. This person who has been accused is supposed to get a notice. It can be a general notice in a newspaper of general circulation or a personal notice. That does not mean that the person will get either of those. Even if the notice is actually obtained, that person has 60 days to respond. That person must tell what is being done to solve the problem either himself or herself or people coming to get rid of these prairie dogs. If that response doesn't come, then the county board can give 48 hours notice and send people on that property without being invited, without a warrant, without giving the property owner a chance to show that these prairie dogs did not come from his or her property. There's no provision for any court challenge to any of this. So these people who come on the property do not have, under the statute, they do not have to have any training at all. Whoever the county says can go, can go. I'm telling you what's in the law and that's what makes it so bad. If they come on the property, they cannot be charged with trespass nor damaging growing crops even if they destroy them. The usual method that they would employ would be poisoning. The person doesn't have to be certified as a poisoner, doesn't have to know anything about poisoning, but can use that methodology. There's a fence line between the two pieces of property, there's nothing in the law

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that says poison, if it's spread along the fence line how far into the supposed violating neighbor's property can go. So that poisoner could spread it all over the entire property and that landowner can do nothing about it because that's allowed under the law. Some people when they think there might be a problem will put a heavy growth of hedge near the property line, the fence line, because prairie dogs like to have open territory so they can see if danger is coming. And that's why they chew the grass down to about half an inch, so that they can see everything. And when you put these hedges by the fence line, it keeps the prairie dogs from coming. [LB449]

SPEAKER SCHEER: One minute. [LB449]

SENATOR CHAMBERS: Some people realize that prairie dogs are what are called keystone animals because they serve a purpose. They're not invasive, they are indigenous or native to Nebraska. It is estimated there may have been 2 billion of them in Nebraska at one time; that over 90 percent of those have been wiped out. Unfortunately, the model for this legislation was a noxious weed law and the noxious weed is one which is not indigenous to the state. So the aim of that law is to totally eradicate these weeds on the property where they may be growing and any other public area because they want to destroy those things completely. I'll turn on my light again. [LB449]

SPEAKER SCHEER: Thank you, Senator Chambers. And you're next in the queue. [LB449]

SENATOR CHAMBERS: Continue: Since the purpose of the noxious weed act is to completely eliminate all the weeds, the purpose of this legislation would have to be to exterminate the prairie dogs. Now what happens when all of this enforcement machinery comes into play? The person who is the accused, remember, has no recourse. You just have to sit back and let all of this happen. Every day that that person does not do something about these prairie dogs, a \$100 fine is imposed, whether that person got the notice or not. And I'm telling you what's in the law. The law does not say the person must receive the notice. Up to 15 days, so a \$1,500 fine is assessed. It's certified to the treasurer who makes it become a lien and it's put on your tax bill. Whatever interest is charged on your taxes is charged on that \$1,500 debt also. If you still don't do anything, the county attorney is called into action, and this got started as a dispute between two neighbors on the basis of an unsupported charge or claim. It has now become a crime. When you're convicted it's called an infraction, but that is a crime. No involvement of the court, this fine was not assessed by the court but by operation of the law it's put in place. So if this person feels that he or she was treated inappropriately and still doesn't come up with the cash, the house can go into the...the property can go into foreclosure. Remember this, your house can wind up in foreclosure based on an unsubstantiated complaint from a disgruntled neighbor. Continuing: it goes from the spat, based on the unsupported claim, to the involvement of the county attorney, a \$1,500 fine, then the possibility of foreclosure and to heap on further, the law says that

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foreclosure action is not the only remedy. Any other remedy that may be available under law is available. This is not found anywhere in the law no matter what a person is accused of having done. When the state takes your property completely, they have to do it by way of eminent domain. This is a civil proceeding and the state does not just come in and say give me, get off. But if eminent domain is authorized, you have to be fairly compensated for your property. Everything is turned on its head just because of prairie dogs and an unsupported complaint. There's not even an investigation by the county. I'm telling you what the law does to see whether or not prairie dogs are already on this person's property. There's nothing to establish that the prairie dogs, if they are on this person's property, actually came from the property of the one who is accused. Prairie dogs do not recognize boundaries, so there could be somebody with land on the opposite side and prairie dogs could just as easily come from there or they could be on the property originally of the one who made the accusation. The county does not investigate any of these issues at any point. I'm kind of rushing because I don't want to take a lot of time. Give everybody who is here enough time to testify, the committee to ask questions, but I want to put enough on the record to show that this is not just a lark. I'm not doing this because prairie dogs are cute, which they are, although I have never seen a live one in my life, but to show that they're part of the heritage of Nebraska. The tourist people put out a poster and guess what is projected on that poster as a drawing card and something of which Nebraskans are proud. [LB449]

SPEAKER SCHEER: One minute. [LB449]

SENATOR CHAMBERS: It is a cute little prairie dog. But that's not why I'm bringing it. When you own property, and this point I'll make, and then I'll take questions. And you all know I don't usually scamper like this, but I want to do what I said by not taking too long on my opening. I'm trained in the law. I have a law degree from Creighton. Real property is one of the most complex, difficult to understand areas of law when you're just starting, so they try to be basic and they start with wild animals. Who owns wild animals in England? The king owned them. Animals on your property do not belong to you. If deer are on your property, they're not your deer. Elk, moose, mountain lions are not yours. You cannot go out there and shoot whenever you want to. And even if you have a license to hunt, you have to comply with that license even on your own property. So when an animal leaves... [LB449]

SPEAKER SCHEER: Time, Senator. Senator, there's no one else in the queue. This is your last time at the mike. Would you like to close on the bill? [LB449]

SENATOR CHAMBERS: It's a situation where nobody owns wild animals. If a fox comes from Senator Harr's land onto your land and eats chickens, you who own the chicken cannot sue Senator Harr because a fox came from his land. The owner of land on which deer eat and the deer leave that land and goes to somebody else's land, the second person cannot sue the first

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property owner because those deer do not belong to that property owner. There are other onerous things about this law. I don't know whether people are not participating because they have been shielded away or because they understand enough to see the validity of this law. But what is on the books now is something that is contrary to all of the laws on this...in this state on any other dispute that people have. So under the current law, what do you have as a way to get relief if a neighbor is using his or her property in a way that interferes with your right to use your property, you go to court. There are laws in place for that. You sue. You can get an injunction to make the person stop doing what he or she is doing and you can also collect damages from that person for the harm that was done. If a person disobeys an injunction issued by the court, there's a remedy for that. The court's orders are to be enforced and the court has the power to do it. And that is done by means of a citation for contempt of court. So all of these problems can be handled. Remember this, there are other counties that have prairie dogs; not one has attempted to use this bad law. It shouldn't be on the books just to be there. Even in the one instance that Sheridan County had where they talked about implementing it, they did not actually use the law because they couldn't get anybody to go on this person's land. So they turned to APHIS and Game and Parks and that's how the matter was resolved, and it could have been resolved that way in the first place without Senator Louden's law. I am in a situation...I'm closing now. I am in a situation where my time has run out. I've presented the best case that I can. And I'm asking you now to vote and send this bill to Select File. It is not one of those offers that people make where there's a lot wrong with the bill and much has to be done with it. Senator Brasch said she has had her staff seek information on how many complaints about prairie dogs have been made to whatever agency currently enforces and some other information. The bill at Select File would be there for those questions to be answered. But I will tell everybody this, I'm accustomed to being ambushed. I'm accustomed to being treated differently from the way everybody else is. Not that a bill that genuinely is bad is killed. If it was bad, I wouldn't bring it. But where pay back time comes, I'm aware of that. I've been in this Legislature 43 years. I've been paid back time and time and time again and I don't expect it to stop. [LB449]

SPEAKER SCHEER: One minute. [LB449]

SENATOR CHAMBERS: But when there's a bill that has merit, such as this one, and the testimony at the committee hearing was valid, the bill had seven votes to come out of committee, this is not a trifling issue. It touches on property rights, due process, whether a person should suffer all of these problems, including having his or her property go into foreclosure because of the complaint about prairie dogs without ever having any intervention by the court. There's nothing in the law that provides a person access to the courts. Maybe somebody, if the law went all the way, could have it struck down by the court as I think would happen. But as a member of the Legislature, there's a duty that I have and I'm discharging it this morning. So, I'm asking that you vote to send this bill on to Select File. And, Mr. President, I will ask for a call of the house. [LB449]

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SPEAKER SCHEER: Thank you, Senator Chambers. There's been a request to place the house under call. The question is, shall the house go under call? All those in favor please vote aye; all those opposed vote nay. Please record. [LB449]

CLERK: 25 ayes, 1 nay to place the house under call. [LB449]

SPEAKER SCHEER: 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 Brewer, would you please check in. Senator Harr, McDonnell, Wishart, would you please return to the floor, the house is under call. We're all here and accounted for. A machine vote, Senator Chambers, or what would you like? I'm sorry, yes. Senator Krist, please return to the floor. The house is under call. Senator Krist, would you please return to the floor. Senator Krist, the house is under call, please return to the floor. Senator Chambers, Senator Krist seems to be lost. Do you mind starting without him? Senator Krist does not seem to be available, we...oh, never mind, we now know he's on his way. Senator Chambers. [LB449]

SENATOR CHAMBERS: I'm asking for a machine vote, but I want it to be a record vote thereafter. [LB449]

SPEAKER SCHEER: Thank you. Question before us is advancement of LB449 to E&R Initial. All those in favor please vote aye; all those opposed vote nay. Have all voted that wish to? Please record, Mr. Clerk. [LB449]

CLERK: (Record vote read, Legislative Journal pages 395-396.) 21 ayes, 17 nays on the advancement, Mr. President. [LB449]

SPEAKER SCHEER: LB449 does not advance. Next item, Mr. Clerk. I raise the call. [LB449]

CLERK: Mr. President, the next bill is LB589. It's a bill by Senator Crawford. (Read title.) Introduced in January of last year, referred to the Judiciary Committee. Bill was advanced to General File. I do have Judiciary Committee amendments, Mr. President. (AM438, Legislative Journal page 695, First Session, 2017.) [LB589]

SPEAKER SCHEER: Thank you, Mr. Clerk. Senator Crawford, you're welcome to open. [LB589]

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SENATOR CRAWFORD: Thank you, Mr. President, and good morning, colleagues. Many of us have worked very hard over the past few years to advance protections for children who are unfortunate victims of sexual abuse and worked hard to make sure that we have child advocacy centers across the state who now provide important and valuable services to those families and those children. LB589 is a next step in this process to try to make sure that we are protecting victims of sexual abuse, sex trafficking, sexual molestation, while also trying to make sure we're protecting due process. And so I urge your consideration of this bill as we move forward. When a forensics...in our child advocacy centers, someone who has been in a situation where they have faced abuse or alleged abuse, child advocacy centers are trained to provide forensic interviews. And so in those communities where the child advocacy center exists, there's an opportunity for a forensic interview to occur with a trained forensic interviewer. And that interview is taped and that becomes an important part of the record for this case in terms of identifying what has happened and an opportunity for the child to lay out the incident in their own words on that tape with someone who is trained to question children and trained to make sure that they're doing it in a way that is unbiased and as least traumatic for the child as possible. When a forensic interview has been conducted by a professional with specialized training at a nationally accredited child advocacy center, LB589 requires an agreement of the parties or approval of the court to conduct a pretrial or discovery deposition of the child. Further, if a deposition is granted, LB589 provides a process for the court to issue a protective order to be carried out during such deposition to shield the child from emotional harm, harassment, undue influence, or intimidation. We have a duty to be sensitive to the trauma and revictimization caused by a child victim or witness being required to participate in the criminal justice process to continually repeat or being questioned about a traumatic event central to this crime. For this reason, our current statutes encourage the use of video recorded interviews to reduce the number of times a child is questioned and to ensure the child is being asked age-appropriate questions that they can understand. A recorded forensic interview also brings transparency to the interview process by allowing all parties to see exactly how the child was questioned. This allows the accused and his or her attorney to see and hear the child describe the alleged crime in their own words and can provide fact-finding information pertinent to the case. Unfortunately, even when these forensic interviews are conducted and recorded, children continue to be subjected to intense pretrial or discovery depositions. When a deposition is conducted in addition to a forensic interview, the child is much more susceptible to experiencing traumatic revictimization, especially since it's not uncommon for the deposition to occur several months after the traumatic event in a much less child-friendly environment. If the child has been working with a therapist between the forensic interview and the criminal discovery phase of a trial, deposition could present a significant setback. With 73 percent of Nebraska child victims being 12 years of age or younger, it's critical that we take action to reduce the revictimization of these vulnerable children. LB589 affords children in felony cases protection from pretrial depositions if a video forensic interview has been conducted by a professional with specialized training at an accredited child advocacy center. As part of the National Children's Alliance accreditation, these interviewers are required to complete

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an initial 32-hour training through an approved, nationally recognized, evidence-based program. The interviewers must then participate in eight hours of ongoing education in forensic interviewing, as well as two peer reviews a year. Specific training has been provided in our state to interview victims of child sex trafficking. With this vigorous training, the child advocacy center provides an interview environment that enhances free recall and minimizes interviewer influence and gathers information needed for the professionals involved in the investigation. It's important to note that if there has not been a recorded forensic interview that meets these requirements, the provisions related to the depositions outlined in LB589 do not apply to the case. Further, LB589 recognizes that there are cases where a forensic interview has been conducted and a deposition later does become necessary. As such, under LB589, a deposition of a minor may be granted upon agreement of the parties or by approval of the court if the deposition will aid in disclosure of evidence that is not reasonably available by other means and is essential in preparing a defense. In other words, LB589 seeks to protect children but still protect the rights of the accused by allowing depositions when the court deems it necessary. If a deposition of a minor is granted in a Nebraska felony case, LB589 creates a process for the court to consider specific protections that may be appropriate during the deposition of a child. In fact, LB589 directs the court to make any protective order that justice may require to protect the child from the negative effects of revictimization. When deciding what protections to be included in the order, LB589 also requires the court consider factors such as age, health, level of intellectual functioning, developmental level, and emotional condition of the child, as well as whether or not the child has knowledge material to any essential element of the crime. Depositions are a tool that can be used in discovery, but they are not a constitutional right. The trial court has the discretion to grant or deny a deposition. This has been upheld by the Nebraska Supreme Court twice, once in 2012 in State v. Collins and in 1991 in State v. Tuttle. What's more, as of 2010, only 11 states allow criminal discovery depositions to be conducted at all for both adults and children. Of these 11 states that allow depositions, 5 have some sort of limitations or protections in place for depositions of minors. It's time Nebraska joins these states to protect our most vulnerable children. Confrontation, in contrast, is a constitutional right and this right applies at trial, not at the discovery phase. Therefore, not deposing a child poses no risk to this...during the discovery phase poses no risk to this constitutional right. Even as a constitutional right, our existing statute provides mechanisms that protect and protect order exceptions to court testimony and confrontation for children in certain cases. So we already recognize even this fundamental constitutional right to confront your accuser has to be balanced with the interest of protecting the child. If we allow protections for children in the trial deposition, surely protections for the discovery depositions, which are not a constitutional right, are justified to provide the same safeguard when a judge is not present. Under LB589, defense attorneys will still have the opportunity to cross-examine the child witness in court, and the defendant will still have the right to confront his or her accuser. LB589 does not change that. Instead, LB589 seeks to enhance our criminal justice process to protect child victims and witnesses while also providing the parties involved with access to truth and accountability. Some opponents have expressed concern the bill

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will comprise a plea bargaining process that often happens in these cases and, therefore, increase the overall number of cases that go to trial. However, in Vermont, a state that recently enacted legislation similar to LB589, no county reported an increase in the number of cases that went to trial after a similar change in their deposition process. The study did, however, find a reduction in the amount of cases that were dismissed because the trauma to the child was too great for the child to withstand the trial process. We have heard many stories from child advocates and county attorneys in Nebraska of child victims being retraumatized by a discovery deposition. In these cases, children were often being asked the same questions they had already been asked in a recorded forensic interview. After the experience of the deposition, parents or guardians, who did not want to make the child retell these events in court, decide not to proceed with the trial and, as a result, the tragic cases were never closed. Colleagues, the current legal climate creates a disincentive for defense attorneys to avoid depositions out of concern for a child's well-being. Even if they do not really see the deposition as necessary or fear it may do harm to the child, they maybe feel compelled to request a deposition because of client pressure or out of concern of an appeal on the grounds of ineffective assistance of counsel. [LB589]

SPEAKER SCHEER: One minute. [LB589]

SENATOR CRAWFORD: LB589 offers a middle ground to be able to protect the child victim but also effectively represent the accused by providing opportunities for discovery depositions in certain cases. It is distressing to anyone to retell the facts of a case in which they are the victim or witness of a traumatic crime. The Legislature worked hard to ensure the professionalism of criminal justice process work together so vulnerable children receive their protections they are due. LB589 will ensure that some of our most vulnerable children who have been victims of rape, human trafficking, molestation, and other unimaginable crimes are protected without effecting the integrity of our legal system. This effort to protect children is widely supported by child advocacy groups in addition to those who testified at the hearing, including the Nebraska Attorney General's Office, Nebraska Department of Health and Human Services, Nebraska County Attorneys Association, and the Nebraska Court Improvement Project, and the Nebraska Association of Social Workers. Legislation to reduce the occurrence of child deposition is also a recommendation of Nebraska's 2015 to 2020 strategic plan for victims and survivors of crime. [LB589]

SPEAKER SCHEER: Time, Senator. [LB589]

SENATOR CRAWFORD: Thank you, Mr. President. [LB589]

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SPEAKER SCHEER: Thank you, Senator Crawford. As the Clerk stated, there are amendments from the Judiciary Committee. Senator Ebke, as the Chair of the committee, you're recognized to open on that amendment. [LB589]

SENATOR EBKE: Thank you, Mr. Speaker. AM438 makes two very minor adjustments to the language of the bill. First, it inserts a reference to a court-appointed special advocate in the list of examples a judge's protective order might address. Second, it adds to the list of examples for such protective orders the possibility that a judge might allow the child's deposition to be taken with a "service or therapy animal" present. During the public hearing on the bill, testimony in support was provided by representatives of the Nebraska Alliance of Child Advocacy Centers, Project Harmony, and the Nebraska CASA Association. Opposition testimony was heard from the Nebraska Criminal Defense Attorneys Association. LB589, as amended by AM438, advanced from the Judiciary Committee with a vote of 5 in favor, 1 opposed, and 2 present but not voting. On behalf of the Judiciary Committee, I ask for your green vote on AM438 to LB589. Thank you, Mr. President. [LB589]

SPEAKER SCHEER: Thank you, Senator Ebke. Senator Blood, you're recognized. [LB589]

SENATOR BLOOD: Thank you, Mr. President. I stand in support of both the amendment and Senator Crawford's well-thought-out bill, and I thank her for bringing this bill forward. She's done an excellent job about talking on the mechanisms of the bill. I want to talk a little bit more about the victims. Everybody in this room knows that word...words have power. We do it every day when we stand in front of this microphone. But I want us to go back to our childhoods. There's not a single person in this room that hasn't had something negative said to them as a child that they probably still carry to this day. Something reminds them of those negative words and they may, depending on how traumatic those words were, have a flashback, one that creates fear, one that changes how they do business everyday and react to other people. And because words have power, that's why this bill is important. Because when we see victims, we can see bruises, we can see lab results that show they were sexually assaulted, we can see broken bones, but we don't see the secondary injuries, and secondary injuries are caused when these children have to continually be interviewed and contacted by a long list of agencies. And what happens is these children become revictimized. I often hear Senator Wayne and Senator Chambers talk about how there's many young youth, especially youth of color and youth that come from low-income families, that have a warped idea of what justice is really about, and that they don't trust the justice system is effective and that it will serve them, serve them well. And this is one of the reasons. When we continue to revictimize these children, they have the secondary injuries. Then these children that should be mending and should be getting better and should be healing are not going to do it in as quick of a process as if they were not being revictimized with additional interviews. And that's not a statistic that I'm just pulling out of the air. That's a proven statistic. It is our job as adults to empower and protect the children of Nebraska. If we can prevent them

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from reliving the experience of exploitation and abuse, that is a just purpose. And for that purpose, again, I stand in support of Senator Crawford's bill. I want you to think about these victims and helping to prevent the secondary injuries, because it could be as simple as just making sure that they're interviewed once, should the courts deem appropriate. And it can make a difference in whether they can grow up to have a normal life, can have effective counseling, can be better people that feel safe in our state and feel that we truly showed them justice, because that's what we're here for today, is to make sure that justice is served and that our children are protected. And that's a noble cause. Thank you, Mr. President. [LB589]

SPEAKER SCHEER: Thank you, Senator Blood. Senator Bolz, you're recognized. [LB589]

SENATOR BOLZ: Thank you, Mr. President. I appreciate Senator Crawford's work and appreciate the effort she's put into trying to bring forward a balanced bill that both prevents further trauma of children and tries to recognize some of the ways in which the defense might need to proceed. But what I want to spend my time talking about is the professionalism and the importance of individuals who are conducting the forensic interviews. And so LB589 affords the victims or witnesses in a felony case additional protection from pretrial depositions if a videotaped forensic interview has been conducted by a professional with specialized training at a nationally accredited child advocacy center, pursuant to the statute. So I want to talk just a little bit about the training and the specialization of those interviewers. Child advocacy centers, you can review the statute, do a number of different things that add value in this area, including coordinating with law enforcement. But they also are very specialized in their training in response to protecting and working with children. They are conducted in a manner that is legally sound and of neutral fact-finding nature. They are conducted in a manner that is developmentally and culturally sensitive and unbiased. The child advocacy center must adhere to research-based forensic interview guidelines and protocol that create an interview environment that enhances free recall, minimizes interviewer influence, and gathers information needed for professionals. The content of the training includes child development, question design, implementation of protocol, dynamics of abuse, disclosure process, cultural competency, and suggestibility. They have continuing education and they must adhere to evidence-supported interview protocol. The point I'm making is that the professionals who do this work can be relied upon and can provide effective, evidence-based, best practice information for the adults who need to proceed with the other aspects of this work. So I support Senator Crawford. I support the child advocacy centers, and I do think this is an excellent approach in terms of both balancing rights in front of the law with the need to protect children and to decrease trauma. So I applaud Senator Crawford and look forward to continued debate. Thank you, Mr. President. [LB589]

SPEAKER SCHEER: Thank you, Senator Bolz. Those waiting in the queue: Senator Pansing Brooks, Wayne, Hilgers, and others. Senator Pansing Brooks, you're recognized. [LB589]

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SENATOR PANSING BROOKS: Thank you, Mr. President. Well, I rise in a little bit of...in a bit of a quandary. Number one, I appreciate the reasons that Senator Crawford brought this bill forward. I did vote this out of committee, and part of it was there was a short session and I just wasn't sure if we were going to get to this fully. But I do still have some major concerns about some of this bill. So I apologize. I did speak to Senator Crawford ahead of time about some of this, and I think she is willing to work with us or work with me or anybody else who's concerned about working on some of this. So let me start off by saying that the CACs are wonderful. The work that the child advocacy centers do is important. It's...I hope you have all been out to visit one because it's truly remarkable what they do and how they protect the young people who are being interviewed. And they even make sure that in the interviews in Lincoln at least, they have a separate room so that police can ask questions and other people can ask questions, but they are not asked by the police officer in front of them. It's my understanding that there are times when they do have defense counsel there, able to also ask somebody, an interviewer, to ask that question. But part of the problem is that many of these interviews are conducted prior to a charge being filed or an attorney being given...so...for the defendant, so before the charge. And so this is very early in the case. And so Senator Crawford has some information that was presented by the Nebraska Alliance of Child Advocacy Centers that it doesn't...that while defendants have a constitutional right to confront their accusers at trial, our entire system has been to help those children not have to go to trial and not have to be confronted by the defendants. So if you're going to limit everything to...and I do think that there are limits that could be placed and different ways of doing this, but to say that there's one early deposition and that's it, to me, that means, I mean, if I had a defendant, I would certainly be forcing the case to go to trial. And I know that it says in Vermont they saw no increase of numbers of cases that went to trial, but then it goes on to say that they did find a reduction in the number of cases dismissed because the...they did find a reduction in the number of cases that were dismissed because the trauma of the child was too great and was unable to withstand the trial. Trials remained low. So anyway, the point is making sure that the cases are dismissed doesn't make sure that justice is assured either. So this is a really hard way to walk through this whole area of confrontation of witnesses, protecting the child, query whether a 16-, 17-, 18-year-old needs such particular protections. Maybe under 12 would be better. And I did talk to Senator Crawford about that. She is thinking about that idea of an amendment. But again we have increased penalties and are increasing... [LB589]

SPEAKER SCHEER: One minute. [LB589]

SENATOR PANSING BROOKS: ...we are increasing penalties significantly. There is a chance that somebody accused of child abuse could be put away for life and never have the ability, really, to confront, unless they really force it to go to trial and then the child is going to have to be in there testifying, and the whole point is not to have them testify if you can because of the trauma and the great trauma on those kids. So I am torn on this. I apologize because I did vote it

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out. I probably should have been not voting and listened better. But this is a very difficult issue and I hope you all listen to all sides of this carefully because we have to protect due process of law. That's number one. We have to protect children. You all know that I care about protecting children. And that right to counsel is something we need to be working on too. [LB589]

SPEAKER SCHEER: Time, Senator. [LB589]

SENATOR PANSING BROOKS: Thank you. [LB589]

SPEAKER SCHEER: Thank you, Senator Pansing Brooks. Senator Wayne, you're recognized. [LB589]

SENATOR WAYNE: It's still good morning, so good morning, everyone. I rise in opposition to the committee amendment and to the bill on some principles. One, this bill is not necessary as in right now if I request a deposition from the other side, particularly in juvenile cases or in a civil case, if the other party objects to a deposition I have to go before the judge and the judge will make a ruling on that. Or if I file a motion for it, they can file a motion to quash and, therefore, we go to the judge and the judge makes a ruling. So there's no need for this, in this regard, because there's already a way in which the party can object. Two, this bill is not about victims because nowhere in the bill do I see the word "victim." It's about any child witness. So let me give you a real life example because I practice in this area, so I read a lot of Opinions. I'm going to read an Opinion from, it's called, Interest of Elijah, docket A-15-1940...or 0946. This is a case that a young child fell off of a couch. Was sitting with other family members when it happened. He later developed a black eye and was put down to go to sleep. And when his parents tried to wake him, he was stiff. So they discussed among themselves and they immediately rushed to the hospital and the child had a skull fracture. So they interviewed, the police, all the children, the parents, and the police concluded that there were no child abuse, nothing. But because of the nature of a skull fracture, Dr. Haney reviewed it and decided that it was not accidental and, therefore, it was child abuse. These children were removed from their home. They went through all these issues and then had a termination proceeding. So I step into the mind, if I was that attorney on that case and I couldn't interview or I had to prove and the burden is on me to have depositions with the children involved in this case, including some older ones, how behind I would be in that case. And this went all the way to the Court of Appeals, and the Court of Appeals basically said there's no evidence, except for Dr. Haney's testimony, that this case actually involved child abuse. So it was reversed and remanded back down to the court. Why is that important? Because had there actually been child abuse, as a criminal defense attorney, sometimes I want to depose the witness, because it isn't just the victim. It's any witness in a case or any witness that's a party of a situation that was interviewed by a...one of these facilities. I want to interview them to get a feel for the truth of what's going on. So a lot of...just imagine that

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if we took every case as a criminal defense attorney to trial, we would never have...our courts would be overloaded. The reason people plea, the reason people settle, the reason in juvenile they accept the facts as true is because oftentimes attorneys walk through what a witness would say and how they would answer questions, and maybe sometimes the burden, they feel, they can't meet to win. So they counsel their clients on what's the best option. I won't have that available unless I go through an extra step of them putting the burden on me, which I think is irresponsible. So as a result, there's definitely a way that I would go to more trials, because I have to have that conversation in order to fully counsel my client on what they should do. But there was something that was said on the floor already about the reason why poor minorities are... [LB589]

SPEAKER SCHEER: One minute. [LB589]

SENATOR WAYNE: ...not interest--and I'm going to push my button again--or don't trust the judicial system. The reality is isn't because of victims have to testify. The people I talk to everyday in my community is because the state of Nebraska seems to continue to snatch babies from their houses. We have more kids in foster care than almost any other state per capita. And most of those kids are black and brown and minority and low-income families, and that's part of my problem. It's not just protecting the witnesses. But I think I have the right to protect the parents who are wrongfully accused and do everything we can to zealously represent them. I can go into more here in a little bit about why we have a baby-snatching problem in the state of Nebraska and how I will continue to fight to make sure parents have all due process rights, including depositions at any stage in the hearing, because at the end of the day, besides death, I think losing your kid is the ultimate punishment. [LB589]

SPEAKER SCHEER: Time, Senator. Thank you, Senator Wayne. Waiting in the queue: Senator Hilgers, Chambers, Schumacher, and others. Senator Hilgers, you're recognized. [LB589]

SENATOR HILGERS: Thank you, Mr. President. Good morning, colleagues. I rise in support of LB589, and I do appreciate both Senator Crawford bringing this bill as well as the very thoughtful comments from my colleagues Senator Wayne and Senator Pansing Brooks. I think it really...those comments that we've heard so far really sort of set the stage policywise of what we're trying to consider. On the one hand I think is an incredibly important right, which are the rights of children to not have to relive this type of trauma, not to be...to have a discovery tool to be used to harass them or intimidate them or in some way silence their voice. On the other hand, is a very and, I think, an equally important right, which is the right to due process. And Senator Pansing Brooks and Senator Wayne, I think, have really outlined the concerns that many of us might have to going too far and be able to silence the right of those defendants to be able to defend themselves in a court of law. Now I want to be clear that this doesn't actually implicate

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the constitutional right to confront your accusers. Some of the questions off the mike that I've heard have to do with, well, aren't you entitled to be able to actually confront your accuser? And that is true actually. You have a Sixth Amendment right under the U.S. Constitution to do that, but that is satisfied at trial. So this isn't...we're not talking about a trial. We're talking about a pretrial discovery procedure that isn't available in many states or maybe it's in some but certainly not all states, this right to be able to have a pretrial deposition of your accuser. As I understand the way that it currently works now is that you can, you can actually have that deposition and that the child is entitled to seek some sort of restriction or some counsel could seek some sort of restriction on that deposition. So the question might be, well, why would we need to do this? And I think the answer to that is that the children often, in many cases, do not have the representation or don't have those individuals fighting for them in the same way that maybe we would have if we were in court. They may be a witness who isn't represented by counsel or they may not have counsel who are actually putting forward the best rights of a child. That happens. That happens with some frequency. And when that does happen, what you end up, the result of that is that you might have a deposition and you don't have anyone defending the rights of the child. So in that sense, I think LB589 flips the presumption. What it does instead is say, look, we're not going to take away your right, defendant, to actually get the deposition, but we are going to increase the burden. And in that regard, Senator Wayne is absolutely right. And the question is whether or not by increasing the burden to achieve that deposition, are we then either violating in a constitutional sense some due process right or just impermissibly or unacceptably burdening someone's due process right? And on that point I remain unconvinced, although I will say I have listened very carefully to the thoughtful comments of my colleagues and I've spoken to some people outside of the glass who have...who deal with this on a day-to-day level. And I think we do want to make sure that we aren't overinclusive in some ways or underinclusive in other ways and that this is narrowly tailored to help protect I think a legitimate thing that we ought to be focused on, the rights of those children, while at the same time not unreasonably taking away the rights of those defendants. And so I will vote green on this. I will continue to listen to the comments from my colleagues, and will continue to talk with those between General and Select. And if there are ways that Senator Crawford would entertain to improve the bill along those lines, I think we would be focused on those. But with that, Mr. President, I would yield the rest of my time to Senator Wayne if he would like it. [LB589]

SPEAKER SCHEER: Senator Wayne, 1:30. [LB589]

SENATOR WAYNE: Yes, Senator Hilgers. May I ask Senator Hilgers some questions? [LB589]

SPEAKER SCHEER: Senator Hilgers, will you please yield? [LB589]

SENATOR HILGERS: I would. [LB589]

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SENATOR WAYNE: Senator Hilgers, juvenile proceedings are essentially civil proceedings, correct? [LB589]

SENATOR HILGERS: I believe that to be the case, yes. [LB589]

SENATOR WAYNE: And so if you're the prosecutor and I want to interview a victim or a witness, would you typically make me get a deposition? [LB589]

SENATOR HILGERS: Say that again, Senator. If you're the prosecutor... [LB589]

SENATOR WAYNE: If you're the prosecutor... [LB589]

SENATOR HILGERS: Uh-huh. [LB589]

SENATOR WAYNE: ...and I want to interview a witness or a victim, would you make me get a deposition? Or what typically happens? You've been around attorneys enough to know that. [LB589]

SENATOR HILGERS: Well, a prosecutor, if they wanted, I mean a prosecutor could go and take...they could ask the witness and see if they would submit to some sort of witness interview. If they refuse, then could seek, I would imagine, some court compulsion and try to get a deposition. [LB589]

SENATOR WAYNE: So that can already currently happen. [LB589]

SENATOR HILGERS: If someone would like a deposition? [LB589]

SENATOR WAYNE: Yes. [LB589]

SENATOR HILGERS: I believe that to be the case. [LB589]

SENATOR WAYNE: So there's no need for this bill, because under the current judicial discretion, I file a motion to depose you, you file a motion to quash, we go before a judge, correct? [LB589]

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SENATOR HILGERS: I don't know if that's...well, civilly...I'm trying to think through your hypothetical, Senator Wayne, and I apologize if I'm getting it backwards. Someone would have to...you could request a deposition. You wouldn't file a motion. If the child is not represented or if the child's attorney doesn't have the child's... [LB589]

SPEAKER SCHEER: Time, Senators. Thank you, Senator Hilgers and Senator Wayne. Senator Chambers, you're recognized. [LB589]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, these are the difficult issues that we deal with. I don't think there's a person in here who would want somebody who had abused a child to get away with it. But on the other hand, because the type of child abuse that we often have in mind, to have that accusation lodged and a conviction hung where it should not be must be put into the equation too. The example I always give is that anybody would say he or she would defend Martin Luther King, Mother Teresa, or Mahatma Gandhi, those kind of people. But then you said what about Jack the Ripper? What about Adolph Eichmann? Well, you can hate them all that you want to. You can believe they did the terrible things that were done. By the way, Jack the Ripper, he was never found. But when you talk about a system of justice, there cannot be a foregone conclusion built into that system other than that the person accused is presumed to be innocent until the state proves every element of that offense beyond a reasonable doubt, every element. And doubt goes to the one accused because the state has all of that coercive power, the panoply of experts and everything that a defendant may not be able to afford. So in trying to bring about a system where a fair trial can occur the persons who are putting that system together must look beyond a personal abhorrence toward somebody who may be accused of something that we're dealing with. And if anything, that's why very strong protections have to be built in because--and it's always stated like this--suppose I were accused of it? Would I want the fact that the accusation to be made, the accusation is made for people to say where there's smoke there must be fire. He was accused of it; he must have done it. They must have evidence. That is not necessarily so. But even if it is, the system, to be fair, cannot allow presumptions and assumptions to lead to a conviction. There must be admissible, probative, or relevant evidence, facts presented that uphold the notion that this person violated a law in the way alleged. When we come to a situation like this, there are any number of items that come into my mind that I have to think of. First of all, the age. There are some people during these tumultuous times, and when a lot of young people are away from home at an earlier age than the maximum age that this bill would set for somebody not to have to give a later deposition, that they might be more knowledgeable, more experienced than the people trying to protect or defend him or her. But there have to be those protections built in, the give-and-take, the back and forth, the push and pull of an adversary situation that exists in America. America operates as an adversarial system of justice, not where the truth is sought but you put two contestants in the arena... [LB589]

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SPEAKER SCHEER: One minute. [LB589]

SENATOR CHAMBERS: Did you say time? [LB589]

SPEAKER SCHEER: One minute, Senator. [LB589]

SENATOR CHAMBERS: Oh, thank you. And the contestants are the ones who determine the outcome, not necessarily the guilt or the innocence or even the evidence that is brought to bear against the one accused. Some people say America has the best system of justice in the world and they don't even know what other systems of justice are. They don't even know what the justice system is in their state or an adjacent state. And they also don't know that in certain countries the prosecutor has as much obligation to produce evidence of the accused's innocence if it's within that prosecutor's possession as to try to produce evidence to find guilt. So this is not a slam dunk issue for me and I will listen to it. And we're going to run out of time this morning but I may have a comment or two to make further down the line. Thank you. [LB589]

SPEAKER SCHEER: Thank you, Senator Chambers. Senator Schumacher, you're recognized. [LB589]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. I spent eight years as a county attorney and chief prosecutor in my younger days, and this bill bothers me some, not because its intent is bad but because reality always isn't all that idealistic. Two things stand out, first of all: One, that this interviewing of witnesses and this protective material doesn't just apply to the victim; it applies to witnesses. And the second thing is the age. It applies to any victim or witness that's under 19 years old. That's pretty old. You can be a pretty sophisticated liar at 15 or 14. And so oftentimes the only way you can get past a lie is catching either the liar in contradictions or finding out that the liar told something else to another witness, usually about their same age. And from that you can wring out the truth of the situation. We've given police and prosecutors enormous horsepower. We've created mandatory minimums, habitual criminals. We made certain behavior not only guilty of one crime but guilty of two, three different crimes by calling crimes different things. We've done consecutive sentences. We bend over backwards for them probably because most of the time they're right. But some of the time they're not. They're human beings prone to make mistakes, prone to want to believe things that aren't true because that's just the predisposition. In a particular situation, they can make mistakes. We've given the people who defend someone who's accused some rights, but we like to edge away at them. And given the fact that the consequences in some crimes are so high and last for so long, and once somebody is convicted, a conviction is so hard to undo, even in the face of really strong evidence that the prosecutor and the police were wrong or mistaken, it's real bothersome. I would think that the law that we have now is adequate to protect everyone's interest. You take a

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deposition, a sworn statement from a witness or a victim, and in the same manner as you would a deposition in any lawsuit. The court can put limits on that as to what can be asked. The court can consider someone of tender years or can also consider that someone who may be 16 really behaves an awful lot and lies an awful lot like a professional adult. So I haven't heard that there is a great deal of abuse in the present system. I'm concerned that witnesses are under this, limitations of this act. You got to sometimes get to the witnesses and you got to make sure that you play one against the other to get the truth. And that's how defense attorneys and prosecutors should work. So I am... [LB589]

SPEAKER SCHEER: One minute. [LB589]

SENATOR SCHUMACHER: ...inclined not to support this particular bill. I'll still listen, but at this point, even though I'm deeply divided, I think that this bill probably goes too far in limiting the ability to ferret out the truth in those cases where the truth is not always obvious in the beginning or to some initial interviewers and only becomes even suggested that there is a different truth than what the prosecutors suggest after a lot of work and a lot of turning of the evidence and a lot of listening to witnesses who are put in a position where they can't lie. So that's my thoughts on this. Thank you, Mr. Speaker. [LB589]

SPEAKER SCHEER: Thank you, Senator Schumacher. Senator Crawford, you're recognized. [LB589]

SENATOR CRAWFORD: Thank you, Mr. President. And thank you, colleagues. This is a very important issue and is a very important consideration that we make in how our judiciary system works and how we balance and make sure we're protecting due process while also, in this case, being attentive to concerns about traumatization of victims and witnesses, and what we now have in terms of new capabilities in terms of being able to have the forensic interviews and have those videotaped and have that available for both sides to examine the tape. It's been mentioned, I just want to clarify again, and as we noted, that sometimes there will be situations that happen where you do recognize that a pretrial or discovery deposition is necessary. What the bill tries to do is tries to make sure that, first, you're examining the forensic evidence; first, you're considering other places to get that information, besides bringing the child in for this deposition. It's also the case that we're thinking about these discovery or pretrial depositions, these are occurring without a judge present. We talked, Senator Pansing Brooks mentioned wanting to prevent these cases from going to trial, but the pretrial, sometimes they are prevented from going to trial because the pretrial deposition can be so traumatic that the child or the parents back away, decide not to continue with the case or the...and that makes it the case that you don't get to a trial for that reason. So again, I think these are all important considerations that we need to make. We need to make sure that we're drawing the line at the appropriate place. LB589 tries to identify a

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protection in allowing the depositions to occur if there's a clear recognition and an agreement between the parties or the court, the judge, determines that there is a need to identify new information and that cannot be identified another way. I think as more...even more important about the bill is the protections that are put in place and the...asking the...there is currently an ability for a judge to put protective orders in place. LB589 says when we have a case of a minor, we want you to be attentive, extra attentive, to put these protections in place so that we have the protections that are needed for that deposition. So when the child is going through the deposition, we make sure that it is done in a way that is suitable for getting information that's necessary for the justice in the case but also attentive to some of the protections that might we need to...be need...need to be made, excuse me, for younger children. And on those protections, the judge is to consider the age of the child, so the considerations for a 12-year-old will be much different than the considerations that there might be in place for a 15- or 16- or 17-year-old. But it does ask the judge to consider what protections may need to be in place in terms of duration and scope and some of those areas to try again to keep the deposition, pretrial deposition, the discovery deposition to be one that focused on what needs to be discovered for the case and trying to reduce the trauma on the child as much as possible, to balance those interests. So again, I appreciate everyone's contribution to this debate. It's very important that we consider this question very carefully. And so I'm listening carefully and I'm glad that we are having a chance to hash out some of these concerns or questions about the bill. And I look forward to continuing the conversation with people off the mike to see if there are other issues or considerations that could be addressed. Thank you, Mr. President. [LB589]

SPEAKER SCHEER: Thank you, Senator Crawford. Mr. Clerk. [LB589]

CLERK: Mr. President, some items: The Appropriations Committee gives notice of hearing. Amendments to be printed: Senator Friesen to LB310; Senator McCollister and Lindstrom to LB480; Senator Hansen to LB211; Senator Crawford to LB589. Enrollment and Review reports LB321 to Select File. Senator Walz offers a new resolution, LR296; that will be laid over. Pursuant to its introduction, I have a communication from the Speaker directing that LR296 be referred to Reference Committee for purposes of conducting a public hearing. Senator Lowe would like to add his name to LB829; and Hughes to LR295CA. (Legislative Journal pages 396-399.) [LB310 LB480 LB211 LB589 LB321 LR296 LB829 LR295CA]

Mr. President, a priority motion: Senator Walz would move to adjourn the body until Wednesday, January 24, at 9:00 a.m.

SPEAKER SCHEER: You've heard the motion to adjourn. All those in favor please say aye. All those opposed say nay. The ayes have it.