

something that those who have been around have heard me talk about many times before, and those on the Judiciary Committee have heard many times before the discussion about does it make sense to create a new criminal law if that criminal offense is already covered under a current law? Because if, in fact, it's covered under a current law, then what you do is, one, create confusion; and, two, create broader prosecutorial discretion which you may or may not be in favor of. So in this particular instance my question would be of Senator Schmit and/or Senator Rogers, it occurs to me or it seems to me clearly that this is criminal mischief under our current statutes. Criminal mischief says a person commits criminal mischief if he or she damages property of another intentionally or recklessly or intentionally tampers with property of another so as to endanger person or property or intentionally or maliciously causes another to suffer pecuniary loss by deception or theft. I think that covers everything that is intended to be covered by this particular statute. And I suggest to you that the reason you may not want a new statute is because criminal mischief, as a matter of fact, has a higher penalty, has a higher penalty than this statute does, this proposed statute does for certain instances. For example, criminal mischief is a Class IV felony if the actor intentionally causes loss in excess of \$300. So if you release a large animal and it's hit on the highway and killed, it's going to be a Class IV felony. It's going to be a Class IV felony whereas if the prosecutor chooses to prosecute under the proposed law, that same thing would only be a Class II misdemeanor if it were a first offense, very significant difference. I think in the context of looking at those penalties and what you're attempting to discourage you ought to look very closely to see if criminal mischief doesn't cover it right now. It's not necessary I don't think to make a different law for different situations that come up if you have a good, broadly stated law that clearly covers the situation. And I would suggest that you all look at 28-519 because I think we have a good law, and I think probably we're just confusing things here and perhaps to the detriment of those who are in favor of protecting those animals from animal rights persons who might involve themselves in a particular financial arrangement or in a particular confinement situation. Thank you.

PRESIDENT MOUL: Thank you, Senator Beutler. Senator Rogers.

SENATOR ROGERS: I'm going to relinquish my time to Loran Schmit because I'm not a lawyer and I don't quite follow what Senator