

March 5, 1982

LB 525, 903

cameral. LB 525 is the next motion.

CLERK: Mr. President, before that if I may, an Attorney General's opinion addressed to Senator Wesely and your committee on Revenue reports that LB 903 advance to General File with committee amendments attached. That is signed by Senator Carsten as Chair. (See pages 1008-1014 of the Legislative Journal.

Mr. President, I have a motion on LB 525. Senator Chambers would move to return LB 525 to Select File for a specific amendment, that amendment being to strike the enacting clause.

SPEAKER MARVEL: The Chair recognizes Senator Chambers.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I've handed around to you a copy of the statement of intent prepared by Senator Sieck on this bill and you can read the entire statement but the last few sentences are significant. "There are two basic reasons for the introduction of LB 525. First, the current law, Section 29-2011.01 provides broader immunity to witnesses and criminal prosecutions then is necessary. Secondly, a witness granted immunity under the current statute may not be prosecuted for any criminal transaction about which he testifies. If it is discovered that the immunized witness participated in a criminal act to a greater degree than originally known, the prosecutor is foreclosed from prosecuting that immunized witness even though he may be able to prove guilt independent of the immunized witness' testimony. The proposed statute would permit later prosecution of a witness under the same circumstances." The key to this whole discussion is that a person has the right under the Constitution to avoid incriminating himself or herself in a criminal prosecution. This statute would enable the state to offer a grant of immunity and compel that person to give testimony which could be incriminating. The testimony would be given against another person. Based on this statute and the statement of intent, this proposed change, the person could later be prosecuted in that same situation. Now we all know that should a second prosecution occur or should a prosecution occur, a denial would be made that it was based on what this person had said. But had there been enough evidence to convict that person anyway, then a plea bargain would have been struck rather than a grant of immunity. The person would have been told that in exchange for your testimony, then we'll reduce the charges on you, but not if you testify, then you cannot be prosecuted. Immunity is granted when not enough evidence would exist to convict the person who is being asked to testify in most cases. Now there was some testimony during the hearing on that bill and I am going to read you this pro-

8316