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Floor Debate  
February 06, 2007

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[LB12A LB34 LB204A LB204 LB211 LB402 LB549 LB549A LB557]

SPEAKER FLOOD: (Recorder malfunction)...Legislative Chamber for the twenty-fourth day of the One Hundredth Legislature, First Session. Our chaplain for today is Pastor Michael McDonald, from the Grace Bible Fellowship Church in Stella, Nebraska, in Senator Heidemann's district. Please rise. []

PASTOR McDONALD: (Prayer offered.) []

SPEAKER FLOOD: Thank you, Pastor McDonald. I call to order the twenty-fourth day of the One Hundredth Legislature, First Session. Senators, please record your presence. Roll call. []

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER Mr. Clerk, please record. []

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

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

CLERK: I have no corrections, Mr. President. []

SENATOR LANGEMEIER: Are there any messages, reports, or announcements? []

CLERK: Mr. President, new A bill, LB549A, by Senator Synowiecki. (Read LB549A by title for the first time.) Amendment to be printed: Senator Erdman, to LB34. A series of hearing notices from Health and Human Services Committee, signed by Senator Johnson. Mr. President, that's all that I have at this time. (Legislative Journal pages 481-482.) [LB549A LB34]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We'll now proceed to the first item on the agenda, motion to withdraw LB557. [LB557]

CLERK: Senator Ashford would move to withdraw LB557. [LB557]

SENATOR LANGEMEIER: Senator Ashford, you're recognized on your motion to withdraw. [LB557]

SENATOR ASHFORD: Thank you, Mr. President, members. LB557 is a bill dealing with the tax credit fund for certain services to be provided by primary and...schools, K through 8 schools, and I would move to withdraw it. The matter is being discussed in the

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education community, and I just...it's just a redundant proposal, and I'd ask that the body grant me the permission to withdraw it. Thanks. [LB557]

SENATOR LANGEMEIER: Thank you, Senator Ashford. The motion before you is to withdraw LB557. All those in favor vote yea; all those opposed, nay. Sorry. Senator Chambers, I recognize you. [LB557]

SENATOR CHAMBERS: Thank you, Mr. President. You get one chance to not notice me. Next time, do it at your peril. Members of the Legislature...but my light is on. Members of the Legislature, I'm not going to object to or oppose Senator Ashford's motion to withdraw this bill, but it does touch a subject, namely education, on which I have some very strong, definite feelings. And I have some very strong, definite negative feelings about the education establishment. A bill of the kind that Senator Ashford is withdrawing really should never have had to be introduced in the year 2007 in this state. He pointed out that the issue will be discussed in the Education Committee. So many things ought to have been done that are not done by the educators, that they should come in for great condemnation. And it is difficult for me to respect them. They are the ones who, by profession, are supposed to develop and nurture and shape the minds of our children. We often are told that the children are the leaders of tomorrow. When I look at how they're being educated, tomorrow does not seem to me to have a silver lining. Water cannot rise above its level. Most people are not going to learn everything that is taught to them. So when those who are teaching don't know what they ought to know, and the students are going to learn even less than that, the further this country goes, the less educated our society as a whole becomes. A program is even going to be put on television, I read the other day, to show how stupid adults are, and they will match the knowledge of adults against the knowledge of fifth-graders. Something like that should not even be taken seriously. But the stupidity of Americans in general is manifested and underwritten every day...underlined, I mean, every day. There are nighttime comics who will take Americans on the street and ask them a question. One was asked--this was some time ago, and I'll never forget his answer--what is the Latin slogan on U.S. money? You all know it's e pluribus unum. He said, oh, I know that. So the questioner said, what is it? He said, "ebus purblum." "Ebus publum." And he was sure that he was right, and people in the audience didn't know that he was not right. They thought, this guy is sharp. Just a guy off the street, and he knows the slogan on the money is "ebus purblum." There are people who will come in this Chamber, and if they happen to look at the ceiling, they won't realize that if they look at that eagle and look at the eagle on the dollar, the arrows and the olive branches are in opposite claws. They don't notice that. They don't even know the symbolism of American symbols. I know what they are, and my people were enslaved, treated like property. And our children still get cheated in school. But I must learn as much as I can, in spite of the efforts to keep us ignorant. I watch how these white businessmen,... [LB557]

SENATOR LANGEMEIER: One minute. [LB557]

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SENATOR CHAMBERS: ...who could take positions and we would have the very idea that Senator Ashford's bill is talking about in place right now. They cannot unify to fight housing segregation. They cannot unify to fight employment discrimination. They cannot unify to make sure that healthcare is available for all of the citizens. I've got my light on, Mr. President, but I will stop for now, until I'm recognized. [LB557]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Your light is next. You're re-recognized. [LB557]

SENATOR CHAMBERS: Thank you, Mr. President. But I'll tell you what they can unify on. And I call them the dirty dozen. Last year, when a provision was put into the law to make it possible for black people, Latino people, Native American people, poor white people to have some influence, through local control, on the schools their children attend, all these big shot white men came from even in places around the world, and met at the Joslyn Museum in Omaha to attack me and what I was doing. They can unify to attack one lone black man trying to help those children who are marginalized and cheated by this society. Some of them there, Warren Buffett, talking about how he goes around the country and boasts about the education in Omaha. But he didn't say that he boasts about the increasing segregation in the schools, the fact that children in these so-called academies are failing miserably. Why, is that what he boasts about? No, he doesn't tell the truth. Michael Yanney was there, but he has since withdrawn himself from the dirty dozen. Walter Scott, David Sokol, go right down the list. One of my good friends, John Cavanaugh, even got caught up in that nonsense. So they could unify against one black man. They like to dictate and give orders, and they have white people shaking in their boots. And you know what they should have gotten together to do, Senator Pahls? I'm drawing you into this, too, because he reminds me of Coburn, that actor. They should have got together and bought me some boots so that I could shake in them, except that I wouldn't be shaking in them. They had a meeting not too many days ago with the Governor, and I called them the Dalton boys and Calamity Jane. Let me tell you some of the big shots who were there, dictating and condemning me. They have me on the brain. I ought to charge them a fee for spending so much of their time on me, poor, poor, pitiful me. Warren Buffett, whom I call "Rumpelsuitskin," and I will give him credit, because he will wear rumpled suits, and he doesn't look like the billionaire that he is. But now that has become his hallmark, "Rumpelsuitskin." David Sokol; Walter Scott, who has the same name as that guy who wrote Ivanhoe, Sir Walter Scott. Had not Scott written Ivanhoe, there would not have been a Civil War in the United States, and someday I'll explain why Sir Walter Scott writing Ivanhoe, and these idiotic people in the South taking it seriously, combined to create a Civil War. I gave you "Rumpelsuitskin" Buffett; Sokol; Walter Scott; and an old gentleman named Dick Holland. He gave some money for a Holland Art Center in Omaha. You all need to know something about these people, and nobody will talk about what they do, because they're afraid to even mention their name. These are not stellar examples of good citizens, not

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from my position. You all may love them, but I don't. What can be said about Dick Holland, besides the fact that he is bankrolling the lawsuit that was filed in Douglas County District Court before that incompetent judge named Coffey to put LB1024 on hold. And Coffey acknowledged in his order that he's dazzled by Buffett money, mentioned the fact that Susie Buffett threatened to withhold some money is a reason to declare that this bill somehow is unconstitutional. That is the most asinine thing... [LB557]

SENATOR LANGEMEIER: One minute. One minute. [LB557]

SENATOR CHAMBERS: ...a judge could do. But he was dazzled by the Buffett name. We ought to start calling him "Buffet." But at any rate, he went to this meeting with these big shots, and he said in the paper, the meeting didn't go anywhere. And that's what I said would happen when the Governor told me that he had insisted that they invite me to the meeting. And I thanked the Governor, but I told him it would be a waste of my time; they're not going to talk about anything. I'd be invited as an afterthought, and only because you told them to invite me, so I'm not going. And sure enough, the meeting went nowhere. They tried to dictate. So why did I call them the Dalton brothers and Calamity Jane? I gave you the four Dalton boys. Susie Buffett was there, too. That's Calamity Jane. Warren has given her money to play with and do missionary work, so she'll stay out of his hair. That's what that's all about. And you all play like you don't know? [LB557]

SENATOR LANGEMEIER: Time. [LB557]

SENATOR CHAMBERS: Thank you, Mr. President. [LB557]

SENATOR LANGEMEIER: Thank you, Senator Chambers. And Senator Chambers, you are recognized for your third time. [LB557]

SENATOR CHAMBERS: Thank you, Mr. President. Sometimes I just love the Legislature, the forum that it provides, because there are issues that need to be raised, and we're the ones who ought to raise them. And this body is the very one which will not raise them. Oh, people will go along and whisper behind their hand, they'll grumble in corners and behind pillars and posts, but they won't bring it out in the open and let those rascals know that to have a lot of money does not mean that they're intelligent. Bank robbers get a lot of money, and they're far more ingenious, because they run the risk of being shot. These guys just lie, cheat, steal, don't pay their income tax, and that's how they get rich, except for Warren. They call him the "Wizard of Omaha." Well, Dick Holland was smart enough to latch onto Warren Buffett's coattails when they were short. And then as Warren's coattails got longer, Dick Holland got longer, too, so he's rich, too, now. He just grabbed onto the wagon, like a tin can tagged to the dog...to the tail of a puppy dog that is made to run down the streets and the alleys. And these white men

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have the audacity to assume the role of slave masters, and think that I'm going to let them demand that the status quo remain in the public schools, and that status quo is one that cheats our children? And as I stated to the Education Committee yesterday, and you all are going to hear it a lot this session, I'm going to talk about what concerns me, and these children who are being cheated concerns me, and it's my responsibility, and I'm going to assume it with a vengeance. They cannot be given a free ride to mess over these children, their parents, and the communities that they feel have no voice, the communities and people they think fear them. I don't fear them. They fear me. That's why they are afraid to invite me to their meetings, and that has been made clear, because they cannot order me around, they can't dictate to me. They're accustomed to dealing with my friends of the Caucasian persuasion, and all they have to do is wrinkle their brow and these white men melt. And that's why these kind of men don't ever come to the Legislature or the Governor to negotiate; they come to order, because that's what they do, and they usually get their way. That's why that bill that Senator Kopplin offered to the Education Committee was one of the most trashy pieces of nonsense that has ever been introduced into this Legislature. He took these people at their word. He knew that lawyers had worked on the bill, he knew that lobbyists had worked on the bill, he thought they earned that money which the public is putting up for them to do their job right. And they gave him an atrocity. And we are going to talk about these issues, and I'm prepared to do battle with anybody on this floor on these issues. And I'm not going to go away, I'm not going to be quiet. Thank you. Mr. President, how much time do I have? [LB557]

SENATOR LANGEMEIER: One, thirty. [LB557]

SENATOR CHAMBERS: I'll take it. If your children finished school and didn't know how to read, you'd be up in arms, and all you'd have to do is say, Johnny can't read, I want Johnny reading next year, and they'd start putting programs in place so white Johnny can read. There are generations of people of my complexion who don't know how to read, and I'm going to let the same white people stay in control of the education of our children, when they've destroyed us... [LB557]

SENATOR LANGEMEIER: One minute. [LB557]

SENATOR CHAMBERS: ...all these generations? Thank you, Mr. President. [LB557]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Harms, you're recognized. [LB557]

SENATOR HARMS: Mr. President and members of the...committee members. I'm thinking about my bill today. Colleagues. Mr. Ashford, would you yield, please? [LB557]

SENATOR LANGEMEIER: Senator Ashford, would you yield to a question? [LB557]

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SENATOR CHAMBERS: (Microphone malfunction) (Laughter) [LB557]

SENATOR HARMS: (Laugh) I'm sure you will. [LB557]

SENATOR ASHFORD: (Microphone malfunction)...a rule that says he can do that. Yes, I will. Thank you. [LB557]

SENATOR HARMS: Senator Ashford, I really apologize to ask this particular question, but I think I missed it because I came in late. The purpose of withdrawing this bill is for what purpose? [LB557]

SENATOR ASHFORD: We have a number of bills in the Education Committee that deal with similar topics, and I felt that it was redundant to have another committee hearing when we're going to be taking this up in the Education Committee in various ways, so. [LB557]

SENATOR HARMS: Now, "taking this up in various ways." Is this being geared for all of Nebraska, or is it being isolated to certain schools? [LB557]

SENATOR ASHFORD: The way this bill was drafted is, it was...it referred specifically to learning community schools. And I believe it would...dealt--well, and I don't "believe"--it dealt with K through 8 school children. But there's nothing other than, we're taking these topics up now in Education, and it just seemed to me that Revenue didn't need another bill if we were already doing...talking about it in Education. [LB557]

SENATOR HARMS: Well, thank you. The point that I want to make here is the very fact, I've had plenty of experience working with children, working in the educational systems, and I'm here to tell you that our children who come from poor families are falling behind. And regardless of whether we have a learning community or whether we don't have a learning community, our children need to be treated appropriately. Children need to be reinforced. Children need to be read to. I'm here to tell you, I've experienced it in western Nebraska. I have worked with Latinos, I have worked with Native Americans. I have given my time up, I have given my personal time up, to personally tutor children in the Jeremiah House. And I'm here to tell you, when a child comes to the Jeremiah House in the Guadalupe area in Scottsbluff, Nebraska, that child needs to have help. That child needs to have assistance. So whatever we do here, whatever kind of legislation we introduce, early childhood development is the most critical thing we can ever do for a child. The first three to five years is critical for that child. We must provide, not only in learning communities, all across the state of Nebraska, we need to provide the right kind of education to give these children a start. I don't care whether they are coming from disadvantaged families or wealthy families. Sometimes they have some of the same issues, because sometimes the parents don't care. And I know that parents

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care in many cases, but the child does not have the opportunity. And so what I'm telling you is this, that whatever we do, it cannot be isolated to learning communities. It has to be isolated for the state of Nebraska. Every child needs to have equal access to quality education. And I object to it if it doesn't happen, because it's wrong. The data shows it, the statistics show it, the research is showing it. So whatever we do and wherever we go, I'm asking that we address the issue appropriately and properly, and not just isolate it to learning communities, because every child needs to have and must have a proper education. And whatever it takes, education is...will take children out of poverty. It is their only hope, people. So whatever it costs us, whatever we do... [LB557]

SENATOR LANGEMEIER: One minute. [LB557]

SENATOR HARMS: ...at this...in this body, we should be prepared to address our children and give them a quality education, so they can be competitive in a global economy and a world that is changing rapidly. And I hate to tell you this, but we're falling behind, and it's time to address the issue. And let's not get caught short, that it's not just learning communities, it's every child in every portion of Nebraska that needs these same services. Thank you, Mr. Chairman. [LB557]

SENATOR LANGEMEIER: Thank you, Senator Harms. Senator Kopplin, you're recognized. [LB557]

SENATOR KOPPLIN: Thank you, Mr. Speaker, members of the body. Education is near and dear to my heart. I made it out of situations in my youth only because of education. I bring ideas to this Legislature in...regarding education, ideas that need to be discussed, need to be taken apart and analyzed and put back together. There's many things that Senator Chambers and I agree on as far as how to educate young children, there's many things we don't, but it's all part of the discussion process. Yes, I brought a bill in yesterday that maybe isn't written the best, because I'm a very poor politician; I'm an educator. But I brought ideas, ideas that need to be discussed, need to be brought forward, need to be analyzed, and that's what it's all about. We finished a very, very long time in hearing yesterday in the Education Committee. We'll have the same amount today. Those bills are all important. They all should be considered. They should all be looked at. So I will discuss with Senator Chambers, or anybody else that wants to discuss at any time. One thing you won't hear me do is do personal attacks. That's not my strategy, and I would hope that that doesn't continue. But education is important in this state. Senator Harms passionately described the way it ought to be. I don't know why we got into discussing education so quickly. The bills haven't even all been heard. But I welcome it. Tear my bill apart, tear any bill apart, but let's come out of here with something, something that will indeed fix some of the problems in the metro area. But you can't talk just about the metro area, because there's pockets of poverty all over this state. There are English-handicapped students all over this state. There are educationally handicapped students all over this state. We need to talk about them. We

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need to finance them. We need to put our efforts together to find a...some way to correct some of these problems. I don't know what's going to happen in the Omaha situation. I don't know what bill, if any, will come out of Education Committee. That's not up to me alone. I might even tear apart my own bill. Certainly, I'll tear apart some of the others that are coming. And when we get all done, I hope that we bring one bill out here that will take a look at LB1024 and say, some of the stuff that we did last year isn't going to work, some of the stuff needs to change. But the bottom line is, we're here for the education of the children of these states, so let's do it right, let's hold a healthy discussion, let's accept ideas from everyone, and then put it together as best we can. Thank you, Mr. Speaker. [LB557]

SENATOR LANGEMEIER: Thank you, Senator Kopplin. Senator Ashford, you're recognized. [LB557]

SENATOR ASHFORD: Thank you, Mr. President, members. I have a couple more bills I'm going to be withdrawing this week, just to keep things moving, hopefully. (Laughter) Hopefully, we can keep the debate going. I would relinquish the remainder of my time to Senator Chambers. Thank you. [LB557]

SENATOR LANGEMEIER: Senator Chambers. [LB557]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Ashford. Members of the Legislature, I'm going to be repetitive all session. People who go to church hear the same thing from the preacher every Sunday. There are Catholics who can repeat masses by heart. I know that because I went to a Jesuit university. So if those things can be repeated, the things that are important certainly can, and repetition is a part of instructing. I have pointed out that reports in the World-Herald have chronicled how poorly black children are achieving on these tests--not the make-up, individual, homemade stuff that each school is allowed to put together under rules of the State Department of Education, but tests like the California Achievement Test. Three very important areas--reading, language, and math. In OPS, the white children test in the 70-something percentile; the black children, in the 22-something percentile, 20-something percentile. And I'm supported to watch my children cheated in these public schools, then hear Dr. Mackiel and other henchpersons he'll bring, and people on this floor who praise and boast about how good education is in OPS, but not one of them is black. Even Senator Howard, who is one of the staunchest defenders of OPS, cannot say that her daughter went to a school where the achievement level was in the 20-something percentile. I emphasize that I have learned white people's English. English is not the indigenous language of the continent from which I hail. Chambers would not be my last name if somebody hadn't dragged people of my complexion over here on a slave boat. You all ran over here on the Pinta, the Nina, the Santa Maria, and these other boats, because you wanted to come here. They dragged us here in chains, kept us ignorant. It was against the law if a white person had the decency to teach me

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how to read, because the philosophy of America is that an educated black man is a good plow hand spoiled. You all never were owned as property. Senator White, I read the other day, is proud of his Irish roots, so he will know what NINA means, N-I-N-A. I've talked to audiences filled and studded with Irish who did not know that those letters stood for, no Irish need apply. And some Irish people are the most racist ones we have to contend with. When schools were put together where black children could attend, Irish were the ones who sometimes burned them to the ground, led the mobs, people who were similarly mistreated as we were. But do you know why I'm concerned about everybody's child? I presume that every person who has a child cares about that child in the way that I care about mine, and children should not be punished for the way they were born, they should not be punished for who their parents are, they should not be punished for anything,... [LB557]

SENATOR LANGEMEIER: One minute. [LB557]

SENATOR CHAMBERS: ...as far as I'm concerned. So when so much time is spent in these classrooms and our children are achieving in the 20-something percentile, you all are the ones who ought to say, Ernie, you are crazy not to stand up every opportunity you have and speak against that. This is what the public schools are doing, and I'm supposed to accept status quo? I never shall. And I will...Senator Kopplin, I need not attack you, but I will attack Buffett, I will attack all those I mentioned. I will attack Dr. Mackiel, and anybody else who has a guilty hand in messing over our children. I'm not a nice guy when it comes to that. I want them to deal with me. I'm a grown man. I can fight, and I know how to fight. Don't take it out on these children and parents who are intimidated. Come after me and do to me what you threaten these other people with, and let's see how it turns out. And I'm still just one against all of them. But I'm going to see that our children get something, as long as I have breath in my body. [LB557]

SENATOR LANGEMEIER: Time. [LB557]

SENATOR CHAMBERS: Thank you, Mr. President. [LB557]

SENATOR LANGEMEIER: Thank you, Senator Chambers and Senator Ashford. (Visitors and doctor of the day introduced.) We have Senator Cornett, Pahls, and Harms. Senator Cornett, you are recognized. Senator Cornett would yield her time to Senator Chambers. [LB557]

SENATOR CHAMBERS: Thank you, Mr. President. I hadn't looked up to see the pharmacy students. I would want every child of my complexion to be able to aspire to be a pharmacy student. If they can't read, will they ever sit up there in a white coat? The only time they'll wear a white coat, maybe, in a hospital is when they're mopping floors and taking out dirty bed linen. If you can read, you can educate yourself to a great extent. I'm one of the slowest readers you will ever find. I'm a painstakingly slow reader.

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But I understand what I read, and I retain things. And I've learned more after I graduated from Creighton and Creighton's law school than I learned while I was there, because not a great deal of teaching went on. But I take it as my responsibility to develop my mind, to the extent that I can. There are black children with far more natural talent and ability than I have, the ability to go further than I could even dream of going, realistically speaking. But if you take a child and you stunt that child's intellectual growth, if you see a spark of imagination in the child's eyes, you blow it out, then you get what we are confronting in our community a lot of times. I believe that education, proper education, can go a great way in diminishing the number of crimes black youngsters commit against other black youngsters. I believe education can go a long way in reducing the number of births out of wedlock among all groups. I believe that it provides the avenue out of whatever bad circumstances you may find yourself in. It's through education and being exposed to things beyond what you see in your neighborhood or your city or your state or even in your country that will inspire your imagination and let you know that there is something better in this world than what you're confronting now, and that you have a chance to reach out and take hold of it, but you have to have the tools. They are intellectual tools. They should be sharpened and honed in the classroom. No child should leave a classroom without knowing how to read, if reading is one of the components of that educational unit. But if our kids don't know how to read, that's so much the better, because they're not supposed to read. Our children are not supposed to be educated to be leaders; they're to be trained to be workers and flunkies and semi-slaves. When people are ignorant, much of the world is shut off from them. Cuba, under Castro, is condemned as a Communist country. They have one of the highest literacy rates in the world. They're around 98 percent, a poor country. But if those Spanish-speaking children came to this country, the conclusion would be automatically, well, they can't learn because they don't speak English. But look what's happening in Cuba. There are white entrepreneurs looking hungrily at Cuba, saying that as soon as Castro is no longer there, they will have the most literate workforce in the world, they acknowledge. So we should be able, if we're serious about improving education, to learn from anybody. Castro is doing a much better job of educating all the children and people in Cuba than what is being done in the United States. Anytime America is compared with any other country that is supposed to be a part of the first or second world,... [LB557]

SENATOR LANGEMEIER: One minute. [LB557]

SENATOR CHAMBERS: ...America comes off very, very poorly. You have a President who glories in and revels in his ignorance. He brags about how ignorant he is. He boasts about the fact that he cannot speak English. And that's the example for the children? Suppose I stood up here and fractured the language, and then talked about education. You'd say, Ernie, you're an example of what education is supposed to correct. That's what Bush is. I wouldn't want my children to grow up, or anybody's children to grow up, and do no better with the language than what Bush does. And I

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certainly would not teach them to be proud of being ignorant. Thank you, Mr. President.  
[LB557]

SENATOR LANGEMEIER: Thank you, Senator Chambers and Senator Cornett.  
Senator Pahls and Senator Harms. Senator Pahls is recognized. [LB557]

SENATOR PAHLS: Thank you, Mr. President, members of the body. A little bit earlier, Senator Chambers scared me a little bit, because I think he was comparing me to a dead man. I'm not dead; I did pinch myself. Just to give you an idea, I do think the topic we're talking about is extremely important. Last night, or I should say earlier this morning, I woke up and I couldn't sleep, so I started watching TV. And here's something that hit the news; I thought, man, this is appropriate, maybe even for Omaha area or for perhaps the state of Nebraska. Kalamazoo, Michigan had a big problem--not enough kids were finishing school. They were not motivated. They had some real questions about what was happening in those school systems...or, in that school system. So lo and behold, a very creative superintendent came along, talked a bunch of the business community to anonymously donate money so any child in this school system who wants to go to college gets to go to college; they just have to graduate from the Kalamazoo school system. They...and I...this morning, I pulled up their web site. It's very well defined. Let's say somebody would say, well, gee, what happens if you're a senior? You think you could go there and get a free four years of college? No, no. It's prorated. Start as a kindergarten, all the way through, it does happen. Senior, it's prorated out. The intent is, they're looking at it totally opposite of what we're looking at things. To me, this is economic development. Kalamazoo has turned around. More people are moving into that school system. They're finding a reason to go there. So maybe we need to flip this problem upside down and try to attract people into school districts. We want people to want to...I want to go to that school district, because we know there are some school districts in this state that people want to send their children to. So now we have to look for some creative leadership. And I'm not saying Kalamazoo is the answer, but I think there are answers out there. They apparently have turned things around. And it starts with the leadership of the community and the leadership of the schools, trying to make life a little bit better for some students. And these students are held accountable. You don't go to school, you don't graduate, you don't get to go to college. It's that simple. And I probably would think that this is not only unique to this particular school district. So there are solutions out there. So we need to find some of those answers, and I think this is one possible solution. All the leaders look at this not as a problem, but maybe as an opportunity to turn the...right now I'm emphasizing the Omaha area, around. But listen to some other senators; we should be concerned about the state of Nebraska. Thank you. [LB557]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Senator Harms, you're recognized. [LB557]

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SENATOR HARMS: Mr. President and colleagues. Senator Chambers, would you yield, please. [LB557]

SENATOR LANGEMEIER: Senator Chambers, would you yield to a question? [LB557]

SENATOR CHAMBERS: Yes, I will. [LB557]

SENATOR HARMS: Thank you very much. Senator Chambers, both you and I have some of the same concerns. You have a concern about children, and you're concerned about the children in the Omaha district, and probably others. Let's get down to the discussion about children. Let's get down to the discussion about, what changes should we make in this educational system to address your issues, to address my issues, and to make sure that rural America and Nebraska in general is getting the kind of education that makes our children competitive for the world global economy that's changing rapidly? So let's talk then about where you feel we are failing in the educational system. So if you and I are going to do anything about the issue, I want to know what that issue is, how we address that issue. And then for the rest of you in this body, let's start the discussion about what makes our school systems better. Senator Chambers, would you please talk to me a little bit about where we're failing, what we need to do to correct that. Is it in reading? Is it in math? Is it in English? Is it the fact that we don't reinforce the children? Is it the fact we need to break the children down into smaller groups? Is it in fact that we have the wrong curriculum? Is it in fact other issues? Let's get down to what really makes the difference about changing this system, because I'm willing to battle for our children. I'm willing to battle whatever it takes to make this a better educational system, because you know what? I agree with you. I agree that if we're going to get out of poverty, it's going to take education. If we're going to make this a better place to live, it's going to take education. And quite honestly, folks, we're not progressing where the way we should. The world today is asking for an entire different skill set that all of America is unable to produce and to meet. And so what we need to be addressing then is, what is that skill set? How do we develop that skill set? What is that skill set that will accomplish what you want to accomplish, because I support what you're saying in regard to children and what it will do for the rest of Nebraska. Senator Chambers? [LB557]

SENATOR CHAMBERS: Senator Harms, you ask the right question. I don't have much time. How much time does remain, Mr. President? [LB557]

SENATOR LANGEMEIER: Two, thirty. [LB557]

SENATOR CHAMBERS: I'll do what I can. In order to modify conduct, you must modify thought patterns. The attitude of this society, in general, toward education must change. But I can't wait for that to happen. I'm saying that local control, which white people have always had and taken for granted, must be made available to us, so that we hire the

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superintendent, we hire the administrators, the teachers, formulate the curriculum, and make everybody who deals with our children accountable to us. Give the parents of those children a stake in the education of their children, meaning that when they visit the school, they're not going to be treated rudely, dismissively, as though they're children. And if they are aggressive in pushing for the welfare of their children, in OPS they can be banned and barred from ever coming to visit the school where their children attend. So we've got to get those kind of impediments out of the way before we can even talk about the specific issues. But the environment in these schools has to be changed, so that the community where the school is located will view it as a child-friendly place, something, an institution, designed to provide uplift. Then we will make our children know that there will be expectations placed upon them. We will not accept a failing grade. [LB557]

SENATOR LANGEMEIER: One minute. [LB557]

SENATOR CHAMBERS: We insist that they achieve at the level of the grade they are attending. We will make sure that in that school there is an adequate library, adequate textbooks. At North High, for example, which is a predominantly minority school in Omaha--it's supposed to be a magnet school--they didn't even have textbooks for all the children for the first few weeks, at least two months, of the school, and I had to keep badgering and hammering and hammering just to get textbooks. So Senator Harms, two minutes is not long enough to say it. I can only touch on some of the very serious problems that have to be moved out of the way just to convert the building and the school into the environment that ought to be there. Then we can put into that building the kind of people who know their subject and have the ability to impart it to the students. [LB557]

SENATOR HARMS: Senator Chambers, thank you very much. This is a conversation that we will visit again, because... [LB557]

SENATOR LANGEMEIER: Time. [LB557]

SENATOR HARMS: Time? Thank you. [LB557]

SENATOR LANGEMEIER: Time. Thank you, Senator Chambers and Senator Harms. Seeing no other lights on, Senator Ashford, you're recognized to close. [LB557]

SENATOR ASHFORD: Thank you, Mr. President, and thank you for the discussion. I think there is no question that this is going to be an education session. That will be our primary mission in this session, is to come up with a plan that will apply across the state of Nebraska. And I appreciate, Senator Harms, your comments, because we in the Education Committee have a huge obligation to look beyond what's in front of us today to find a solution. And we...and I'm convinced that we will look beyond what is in front of

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us today. We're...I'm just so blessed to be in that committee, to have the educators there that I can listen to and learn from, Senator Kopplin and all the rest of the educators that are there, because we...Senator Adams, Senator Avery, Senator Raikes, all know so much more about this topic than I do. But the discussion has been great, and I think the table has been set. We cannot leave this place in June, May 31, whatever the last day is, no matter what other issues are out there, whether it's taxes or the budget or whatever, those are all critical issues, but the number one issue, without question, is our educational system throughout the state of Nebraska and how we deal with the gap in learning, whether it's in Omaha, in Lincoln, in North Platte, in rural Nebraska, whatever it is. We have to come up with a plan, and I'm convinced that the Education Committee will do that. And if we don't do that, if we don't come up with something that's understandable to the body, that is clear to the body and clear to the citizens of the state, then we will have failed. This is the education session. It's the number one issue. Everything else pales in comparison. And I appreciate the debate and discussion on my motion to withdraw. And I...hopefully we can bring to the body what I believe they expect us to bring to them. Thank you, Mr. President and members. [LB557]

SENATOR LANGEMEIER: Thank you, Senator Ashford. You have heard the closing on the motion to withdraw LB557. All those in favor vote yea; all those opposed vote nay. Have all those that wish to vote cast? Mr. Clerk, please record. [LB557]

ASSISTANT CLERK: 36 ayes, 0 nays on the motion to withdraw LB557, Mr. President. [LB557]

SENATOR LANGEMEIER: Thank you. Next item on the agenda, LB204A. Mr. Clerk. [LB204A]

ASSISTANT CLERK: Mr. President, LB204A, introduced by Senator Synowiecki. (Read title.) The bill was read for the first time on February 5 of this year, reported directly to General File. [LB204A]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Synowiecki, you're recognized to open on LB204A. [LB204A]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier, members of the Legislature. Just the other day, we had substantive public policy debate relative to the underlying bill, LB204. This is the A bill with that legislation that provides \$188,000 from the Contractor Registration Cash Fund for year '07-08, and \$165,434 from the same fund for '08-09, to the Department of Labor, Program 194, to aid in carrying out the provisions of LB204. I would ask that the A bill be advanced, as LB204 was advanced the other day. Thank you, Senator Langemeier. [LB204A LB204]

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SENATOR LANGEMEIER: Thank you, Senator Synowiecki. Senator Stuthman, you're recognized. [LB204A]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. Could I engage in a little conversation with Senator Synowiecki, please? [LB204A]

SENATOR LANGEMEIER: Senator Synowiecki, would you yield to a question? [LB204A]

SENATOR SYNOWIECKI: Yes, of course. [LB204A]

SENATOR STUTHMAN: Senator Synowiecki, this money that you're talking about, to the cash fund, I had...I was under the impression that the funds collected by the fees would take care of this. Or is this just a bookkeeping method of trying to establish that fund to start with? But you have...that has been in place already the past year or two, since the other bill was passed, that has the fees being collected from the three counties, correct? [LB204A]

SENATOR SYNOWIECKI: I'm sorry, Senator Stuthman. I neglected to indicate in my opening that these are all cash funds. [LB204A]

SENATOR STUTHMAN: Those are all cash funds. [LB204A]

SENATOR SYNOWIECKI: Yes, they are. [LB204A]

SENATOR STUTHMAN: It's just a cash, bookkeeping fund, so. [LB204A]

SENATOR SYNOWIECKI: It allows the department to...it's pretty...on your fiscal note, under explanation of estimate, it gives a pretty good narrative relative to where these funds will go. And these are all cash funds. [LB204A]

SENATOR STUTHMAN: Okay. Thank you, Senator Synowiecki. [LB204A]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki and Senator Stuthman. Senator Wightman, you're recognized. [LB204A]

SENATOR WIGHTMAN: Thank you, Mr. Interim Speaker, members of the body. I rise...and I'm not quite sure what the order ought to be. I understand this is to pass an A bill, or advance to E&R. I have a lot of problems, as was indicated last Friday, I think, when we debated this bill on First Reading. And I think we're premature in passing an appropriations bill with regard to this bill. There are a number of issues that we discussed the other day, particularly with regard to how much unintended consequence this act may have. We are passing a bill, or we're talking about a bill, that probably in my

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district would have 1,000 violators the day that it took effect, or it would within a very short time after that, because as I understand it, even a farm custom operator who went out and maybe had two people working for him for one day would be in violation of this bill. We are talking about a bill that would affect every small contractor out there. And I know that the statement was made, well, we don't look at this bill as having any enforcement at this lower level. But I think it is going to be. It certainly is a bill, and a person is going to be in violation. But even more, I'm concerned about the penalty clause, that we're allowing an administrator--and I'm looking at page 3 of the bill--we're allowing an administrator to assess up to \$5,000 civil penalties for a first-time violation of this act, and \$10,000 for a second and subsequent offense. I kind of draw a parallel, like this might be going rabbit hunting with a cannon. It just seems to me ridiculous that we're looking at this kind of penalties and providing this kind of discretion for an administrative person that he can assess penalties up to these amounts. And I think it just allows way too much discretion. But we're really only talking about the A bill at this time, and I realize it. But as a result, I'm requesting that the body seriously consider not advancing the A bill to E&R until there is more opportunity for discussion of the unintended consequence of this bill. [LB204A LB204]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Seeing no other lights on, Senator Synowiecki, you're recognized to close. [LB204A]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier. Senator Wightman, me and you had casual conversation this morning on the fee...excuse me, on the penalty structure that the department utilizes relative to the Contractor Registration Act. Subsequent to that conversation that I had with you, my staff is going to engage the Department of Labor to get their history of fine assessment under the Contractor Registration Act. Hopefully the information we obtain through that engagement will help counter some of your concerns relative to a Department of Labor run amok with these fines. You know, I can assure you that if there is substantive evidence that they do not use due discretion in assessment of fines, I'll stand shoulder to shoulder with you relative to that maximum penalty. That maximum penalty was raised for a specific person...purpose, and that is that there has been a history of violation of the Contractor Registration Act, and it was viewed as raising that limit on the higher end as a practical deterrent to continued abuses. And I will continue the conversation with you, Senator Wightman. My door is always open to you, to look at the fee, and as well as the penalty structure. And if there appears to be a substantive public policy reason to lower that as it is in the bill right now, I assure you, we'll sit down and we'll work on it. This is the A bill for LB204. It's a bill that has been advanced to Select File. I would ask that you advance the bill to Select File. It sounds like we'll have additional substantive public policy debate relative to the issues embodied in LB204. I welcome that debate, I welcome that discussion, but I think it's better fit...a better venue for that debate is on the actual bill itself, and not the A bill. I would ask your indulgence to pass along the A bill, so that it will be aligned with the underlying bill, LB204, on Select File. Thank you, members.

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[LB204A LB204]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. You have heard the closing on the advancement of LB204A to E&R Initial. All those in favor vote yea; all those opposed vote nay. Have all those that care to voted? Record, Mr. Clerk. [LB204A]

ASSISTANT CLERK: 25 ayes, 4 nays to advance the A bill, Mr. President. [LB204A]

SENATOR LANGEMEIER: The bill advances. Next item on the agenda, LB549. Mr. Clerk. [LB204A LB549]

ASSISTANT CLERK: Mr. President, LB549, introduced by Senator Synowiecki. (Read title.) The bill was read for the first time on January 17 of this year, referred to the General Affairs Committee. That committee reports the bill to General File with no committee amendments. [LB549]

SENATOR LANGEMEIER: Senator Synowiecki, you're recognized to open on LB549. [LB549]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier, members of the Legislature. I do bring to you LB549. It's a bill that provides for microdistilleries in our state. This bill was heard by the General Affairs Committee on January 29, and was advanced to General File. The committee statement reflects that seven members voted to advance the measure. One member was absent. Three individuals testified in support, or as a proponent for LB549, there were no opponents, and the Nebraska Liquor Control Commission chair provided testimony in a neutral capacity. LB549 allows any party holding a microdistillery license to manufacture or retail their own spirits within their licensed retail location, just as the craft brewing law does for beer. The bill mandates that the holder of the microdistillery license shall not be allowed to engage in the wholesale distribution of spirits. If a microdistillery license holder would choose to sell a spirit to a retailer, they would be required under the bill to follow the existing three-tier distribution system. I bring this legislation on behalf of a responsible constituent microbrewery establishment that employs over 250 individuals and wants to expand the scope of their business. Currently, Nebraska has 12 brew pubs already in existence that collectively account for about 1 percent of beer sales in the state of Nebraska. I think microdistilleries would be beneficial for Nebraska for many reasons. First, tax revenue for the state. The spirits manufacturer tax rate is \$3.75 per gallon. If the maximum 21,000 gallons were produced at a single location, it would equal an extra \$78,750 of revenue for the state. Second, the creation of jobs. Producing a new product and expanding businesses would allow for the hire of additional employees. At least my constituent business informs me of plans to hire additional employees to produce the product envisioned within LB549. The craft brewery law has created hundreds of jobs in the state of Nebraska, and craft distilling has the potential to do that, as well. Third, the

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use of Nebraska raw materials and products. The list of products that may be used from Nebraska includes, but is not limited to, corn, wheat, fruit, beer, cider, and wine. Fourth, tourism. Many in-house breweries or farm wineries give tours as part of their services. It would be the same for the microdistillery if the license holder chooses to do so. I might at this time...I was quite amazed at testimony at the public hearing for this bill, and it came from individuals that run a microdistillery...or, excuse me, a microbrewery and winery down in Pawnee City, Nebraska, which I believe is Senator Heidemann's district. And Sharon Schilling testified, from SchillingBridge Winery and Microbrewery. And I'll just quote here from the opening...from the statement she gave the committee. We have proven at SchillingBridge that value-added products are of great interest to the tourists. Since opening November 26, 2005, just over a year, we have entertained more than 10,000 guests, from 40 different states and 4 different countries. She editorialized, not bad for a community of 1,008, from Pawnee City, Nebraska. I thought that was quite remarkable, relative to the anchor that these microbreweries are for tourism, particularly in a small town such as Pawnee City. LB549 would allow for the creation of a viable business model that will help initiate an entirely new type of business in Nebraska. I think we need to create a whole new industry, just as the craft brewery law did for brew pubs 19 years ago. I want to thank members of the Legislature, and I would ask that we advance LB549. Thank you. [LB549]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. You have heard the opening on LB549. There are a few lights on. (Visitor introduced.) We have Senator Chambers, McDonald, and Pirsch. Senator Chambers, you're recognized. [LB549]

SENATOR CHAMBERS: Mr. President, I have a few questions of Senator "Snicky." Senator, this bill... [LB549]

SENATOR LANGEMEIER: Senator Synowiecki, would you yield to a question? [LB549]

SENATOR SYNOWIECKI: Yes. [LB549]

SENATOR CHAMBERS: This bill describes a microdistillery as producing, I think, fewer than 123,000 gallons a year on the premises? [LB549]

SENATOR SYNOWIECKI: I think it's... [LB549]

SENATOR CHAMBERS: Does that sound about right? [LB549]

SENATOR SYNOWIECKI: Actually, it's 21,000 gallons. [LB549]

SENATOR CHAMBERS: Twenty-one thousand. Okay. Are you satisfied that it's 21,000? Okay. [LB549]

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SENATOR SYNOWIECKI: Yes. [LB549]

SENATOR CHAMBERS: And that's hard liquor. We're not talking about beer. Are there...go ahead. Is that true? [LB549]

SENATOR SYNOWIECKI: Yeah, it's a microdistillery. With...I don't want to take up all your time, but...go ahead. [LB549]

SENATOR CHAMBERS: That would be a yes or no. Okay. Are there establishments which sell beer where minors can be present, but not present where hard liquor is sold? Or can hard liquor be sold wherever beer is sold, and minors can be present in both places, namely a restaurant? [LB549]

SENATOR SYNOWIECKI: Senator Chambers, it's my layman's...children can be exposed to establishments that have a liquor license that include both beer and hard liquors. [LB549]

SENATOR CHAMBERS: They can be? [LB549]

SENATOR SYNOWIECKI: Yes. [LB549]

SENATOR CHAMBERS: Okay. So if children come into a restaurant and they're with their old man and he orders...what do you call a dose of alcohol, a shot? Is that what you call a dose of it? [LB549]

SENATOR SYNOWIECKI: It's commonly referred to as a shot, yes. [LB549]

SENATOR CHAMBERS: Okay, orders a shot. And he's going to give Junior a little taste. Would that be allowed? [LB549]

SENATOR SYNOWIECKI: That's illegal activity. [LB549]

SENATOR CHAMBERS: Well, it can be done in church and at home; why shouldn't it be done in restaurants, if it's just a little bit? If you give no more in a restaurant than you get in church, should it be allowed? [LB549]

SENATOR SYNOWIECKI: Under current law, as I understand it, Senator Chambers, there is an exemption for legitimate religious activities performed in a church for the consumption of wine. [LB549]

SENATOR CHAMBERS: Have you heard the expression, the family that prays together, stays together? [LB549]

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SENATOR SYNOWIECKI: I've heard that expression. [LB549]

SENATOR CHAMBERS: Have you seen commercials where they're trying to get families to eat together because it says that they will have conversations that ordinarily they wouldn't? Could a person have a religious service in a restaurant? [LB549]

SENATOR SYNOWIECKI: I don't think that that religious exemption in state law would apply (inaudible). [LB549]

SENATOR CHAMBERS: Why not? Does it say it has to be in a church building? [LB549]

SENATOR SYNOWIECKI: You know, I really don't know. I don't have (inaudible). [LB549]

SENATOR CHAMBERS: I think it says some religious ceremony or service, doesn't it? [LB549]

SENATOR SYNOWIECKI: Yes. [LB549]

SENATOR CHAMBERS: So if it can't...if religion can't be confined to a building, cannot...and is there anything that would say how many people have to be involved in the ceremony? [LB549]

SENATOR SYNOWIECKI: Senator Chambers, I'm not well-versed in that part of the law. I really don't know. I just...I do know that there is a religious exemption for the consumption of wine for youngsters that participate in legitimate religious... [LB549]

SENATOR CHAMBERS: Why do we limit it to wine? Wine is an alcoholic beverage, isn't it? [LB549]

SENATOR SYNOWIECKI: Yes. [LB549]

SENATOR CHAMBERS: Beer is an alcoholic beverage. [LB549]

SENATOR SYNOWIECKI: Yes. I...the only reason... [LB549]

SENATOR CHAMBERS: Whiskey is an alcoholic beverage. [LB549]

SENATOR SYNOWIECKI: The only reason why I say wine is because that is the alcoholic beverage that's commonly used in religious ceremonies. [LB549]

SENATOR CHAMBERS: But if a different religion used whiskey, that religion should be

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able to use whiskey in its religious ceremonies, shouldn't it? [LB549]

SENATOR SYNOWIECKI: I don't know what the limitations of the current statute are. [LB549]

SENATOR CHAMBERS: Well, that's why I'm dealing with it from the standpoint of policy, because I want to get to your bill. Now, if a family came to a restaurant, right now they can order beer. But they don't want beer. They want some spirits, because they're dealing with the Holy Spirit. So they want some spirits to go along with that, and they're going to give the child... [LB549]

SENATOR LANGEMEIER: One minute. [LB549]

SENATOR CHAMBERS: ...a sip out of this shot. Should that be allowed? [LB549]

SENATOR SYNOWIECKI: Absolutely not. [LB549]

SENATOR CHAMBERS: Why not? You against religion? I thought you were a religious man. [LB549]

SENATOR SYNOWIECKI: It would be illegal for a youngster under the age of 21 to consume alcohol at a...it would be...you would be placing the liquor license holder's license in jeopardy by doing so. [LB549]

SENATOR CHAMBERS: But if we make it legal. Who is to say that that is not a religious ceremony that fits within the existing exemption? Who is to say that? [LB549]

SENATOR SYNOWIECKI: It would violate the law, because it would violate the liquor license holder's...the law as it pertains to them, and the conduct that goes on in their facilities or in their establishments. [LB549]

SENATOR CHAMBERS: If we changed it to say, provided that this is served in a religious ceremony, then it would be legal, right, if we got that into the law? [LB549]

SENATOR SYNOWIECKI: Perhaps, if you got it in the law. But if you have a religious ceremony... [LB549]

SENATOR LANGEMEIER: Time. [LB549]

SENATOR SYNOWIECKI: ...at a liquor license establishment, it would violate the law. [LB549]

SENATOR LANGEMEIER: Thank you. [LB549]

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SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator "Snicky."  
[LB549]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator McDonald, you're recognized. [LB549]

SENATOR McDONALD: Mr. President and members of the body, this bill was brought to our committee, and it was passed with a 7 vote, with 1 absent. So we all felt that it gave the opportunity for our microbreweries, or for anyone, to allow microdistilleries. Will this happen a lot in the state of Nebraska? Probably not, because it's very expensive to develop a microdistillery. But we have no laws that allow microdistilleries on the books, so the people that were interested in microdistilleries came to us and said, okay, if we just mirror the bill after the microbreweries, that language then could create a bill. And that's exactly what has happened here. So this will create the opportunity to have microdistilleries here in the state of Nebraska. There is no provisions under law that allows for that, and that's what this bill does, it just allows that opportunity. And if you have any questions, you know, please ask, because I'm not an expert in that field, but it really...this bill does not deal with anything that's in regard to the religious ceremonies. Thank you. [LB549]

SENATOR LANGEMEIER: Thank you, Senator McDonald. Senator Louden, then Chambers. Senator Louden, you're recognized. [LB549]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I read this bill, I have some questions, I guess, that I would like clarified for me. And I was wondering if Senator Synowiecki would answer questions for me, if he would, please?  
[LB549]

SENATOR LANGEMEIER: Senator Synowiecki, would you yield to questions? [LB549]

SENATOR SYNOWIECKI: I will try to be responsive. Thank you. [LB549]

SENATOR LOUDEN: Senator, as I look on the page 13, to get a microdistillery license it's, what, \$250? Is that correct? [LB549]

SENATOR SYNOWIECKI: Yes, line 3. [LB549]

SENATOR LOUDEN: Okay. And then as I look on a previous page over there, I think page 12, a microdistillery can produce 21,000 gallons of liquor annually? [LB549]

SENATOR SYNOWIECKI: Yes. [LB549]

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SENATOR LOUDEN: Okay. Then my question is, for 250 bucks, somebody can make 21,000 gallons of white lightning, is that correct? [LB549]

SENATOR SYNOWIECKI: I'm sorry, 25...of what? I didn't hear that. [LB549]

SENATOR LOUDEN: White lightning. [LB549]

SENATOR SYNOWIECKI: I don't even know what white lightning is, Senator. [LB549]

SENATOR LOUDEN: Well, that...(laugh) that's your straight alcohol product from the stills. [LB549]

SENATOR SYNOWIECKI: Oh. [LB549]

SENATOR LOUDEN: I guess you aren't old enough to remember when we had bootleggers, but that was the straight product from your still there. Now, that's 180 proof, is usually what comes out of there if you do a good job of distilling your mash or whatever it is you have. So consequently, the way this is written, this is what you can do, isn't it, make 21,000 gallons of 180-proof alcohol out of it? [LB549]

SENATOR SYNOWIECKI: The...Senator Louden, to give you a point of reference, perhaps, this bill allows for one-third less alcohol than the brew pub law allows for. So you can't...so it's a third less than what the brew pub law currently allows. What I might inform you, as well, Senator Louden, the individuals that brought me this bill currently run a microbrewery, and they've been very successful, and they've got in excess of 250 employees now, and two different sites. And they want to...they have a business plan drawn up to microdistill now, and the market that they will attempt to capture is not your white lightning type of market, Senator. The market they're attempting to attach themselves to is a higher-end distilled spirit market. [LB549]

SENATOR LOUDEN: Well, I agree that what they're trying to do is fine, and I don't question that. I question, the way the bill is written, what you can do with it and what you can make. And if it's...if you're running a distillery, a still, you're going to come out with 180-proof alcohol if you do it right. Otherwise, you got something else mixed up in there. You cut the stuff after they make the alcohol, then they blend it with other things to cut the amount down. Now, is it 21,000 gallons is what you're going to run out of the still; or is the 21,000 gallons going to be your product when you get all done with cutting it down, in other words, to put it down to 86-proof or whatever proof that you want to do with your alcohol? [LB549]

SENATOR SYNOWIECKI: First of all, Senator McDonald reminded me that you can only have these in licensed...currently licensed establishments. And so that would...and there is no...we currently have a distillery law, as I understand it, on the books. This is a

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microdistillery law that is patterned after our microbrew law which was adopted some 17 or 18 years ago. [LB549]

SENATOR LOUDEN: True, because your distillery law license costs \$1,000. But I was always under the impression that when you were running a still, then your product had to be...have a federal tax stamped on it before you could move it out the door. So anyway, that was the questions I have, Senator Synowiecki. And thank you for trying to answer part of my questions. [LB549]

SENATOR LANGEMEIER: One minute. [LB549]

SENATOR LOUDEN: But I have concerns about whether this is crafted exactly the way you want it done or not. So I'll listen to the debate and decide farther whether I can support this bill. Thank you. [LB549]

SENATOR LANGEMEIER: Thank you, Senator Louden. Senator Chambers, you're recognized. [LB549]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask the introducer of the bill a question or two. [LB549]

SENATOR LANGEMEIER: Senator Synowiecki, would you yield to a question? [LB549]

SENATOR SYNOWIECKI: Yes, I will. [LB549]

SENATOR CHAMBERS: Senator, how is a record kept of how many gallons are distilled? [LB549]

SENATOR SYNOWIECKI: You know, that's a great question, and I can find that out for you. [LB549]

SENATOR CHAMBERS: (Inaudible) [LB549]

SENATOR SYNOWIECKI: I really don't know how it's...whatever it's done on the microbrewery end of things, I'm sure it would be emulated on the microdistillery. [LB549]

SENATOR CHAMBERS: But there's nothing in the bill that lets us know that, that I've been able to determine. Maybe I missed it, because the bill is quite...it has some length to it, and I haven't had really a chance to examine it. But that's a question the answer to which I would appreciate your getting. [LB549]

SENATOR SYNOWIECKI: Yes. [LB549]

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SENATOR CHAMBERS: May this liquor be taken off the premises, other than inside the imbiber? [LB549]

SENATOR SYNOWIECKI: If it is going to be distributed, it needs to be distributed under the current tier...we have a three-tier system for distribution of spirits. [LB549]

SENATOR CHAMBERS: No, may a diner come in, order some liquor, and take it off the premises? [LB549]

SENATOR SYNOWIECKI: If it's bottled. Like to go, like a container to go type situation. [LB549]

SENATOR CHAMBERS: And who's going...okay, does the container have to be sealed shut? [LB549]

SENATOR SYNOWIECKI: Yes. Under current law, you can't leave a liquor establishment with an unsealed liquor container. [LB549]

SENATOR CHAMBERS: If a person buys some wine and doesn't drink it all, isn't that person able to take the remainder of it off the premises, the bottle? [LB549]

SENATOR SYNOWIECKI: You know, I think we just...I think Senator Mines just had that bill last year or the year before. [LB549]

SENATOR CHAMBERS: Right, so does it apply only to wine, or will it apply to hard liquor also? [LB549]

SENATOR SYNOWIECKI: It's...well, let me just explicitly indicate to you, Senator Chambers, it's not my intent that they could remove a distilled spirit from an establishment unless...it's got to be wholly sealed and unopened. It would be like a... [LB549]

SENATOR CHAMBERS: Does the one...excuse me. [LB549]

SENATOR SYNOWIECKI: It would be just as if you'd come in and buy a pint of Seagram's to go. You could buy a bottle of this locally distilled product to go, I would think. [LB549]

SENATOR CHAMBERS: Does the person who will serve this hard liquor have to have a bartender's license? [LB549]

SENATOR SYNOWIECKI: Senator Chambers, this doesn't do anything relative to...we now serve hard liquors, as I think you know, various products, and this would simply be

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a product that would be among all the other products, except it would be brewed...or distilled here in Nebraska and not... [LB549]

SENATOR CHAMBERS: But can... [LB549]

SENATOR SYNOWIECKI: ...and not shipped in from another state. [LB549]

SENATOR CHAMBERS: But can...since this, we're talking about restaurants also, is this going to be served to the table in a bottle, or in a glass, or a bottle with glasses provided? [LB549]

SENATOR SYNOWIECKI: My...I would think it would be...since it's a distilled spirit, it would be served in a glass. [LB549]

SENATOR CHAMBERS: So is there any limit to how many glasses may be served to one diner? [LB549]

SENATOR SYNOWIECKI: Again, Senator Chambers, it would be the same as any other distilled spirit that is served now, except this would be one that was originated in the state of Nebraska, in terms of... [LB549]

SENATOR CHAMBERS: Which requires less, in terms of volume, to place a person under the influence--beer, or hard liquor? [LB549]

SENATOR SYNOWIECKI: Beer is much...has much less alcohol content by volume. [LB549]

SENATOR CHAMBERS: So hard liquor, a much smaller amount of hard liquor, could place somebody under the influence than beer, correct? [LB549]

SENATOR SYNOWIECKI: Yes. [LB549]

SENATOR CHAMBERS: So if people drank this hard liquor in the restaurant, the person could be impaired and leave and drive, which is not the case now. Or can they...can they be served hard liquor right now in restaurants, and the only difference is that the liquor will be made on the premises? Is that the only difference? [LB549]

SENATOR SYNOWIECKI: Exactly. It...the... [LB549]

SENATOR LANGEMEIER: One minute. [LB549]

SENATOR SYNOWIECKI: ...all these scenarios you put forth are conceivably in existence now. I might also...for your information, Senator Chambers, this particular

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group that brought me this bill are...I think, are very responsible establishment owners, and have never been cited...never been before the Liquor Control Commission on any issues relative to their license. [LB549]

SENATOR CHAMBERS: Maybe they're greasing some palms, for all I know. You have more confidence in these dispensers of hard liquor than I have. As a matter of fact, the law that relates to getting a liquor license says that a person must be of good character. I have never been able to see where good character has anything to do with selling liquor, or where selling liquor has anything to do with good character. But I want to ask you this next question. How many shots can come out of a gallon of whiskey, if you have any idea? Because I want to see how many individual persons or shots can be served out of this 21,000 gallons. [LB549]

SENATOR LANGEMEIER: Time. Senator Chambers, your light was on and then went off. Did you want to speak for the third time? I recognize...Senator Chambers is recognized. [LB549]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'd like to ask Senator Wightman a question or two. [LB549]

SENATOR LANGEMEIER: Senator Wightman, would you yield to a question? [LB549]

SENATOR CHAMBERS: Senator Wightman, are you familiar with this bill? [LB549]

SENATOR WIGHTMAN: I'm not particularly familiar with it, but I certainly understand the 21,000 gallons. [LB549]

SENATOR CHAMBERS: Okay. How many shots can come out of a gallon of hard liquor? [LB549]

SENATOR WIGHTMAN: My question goes to the same as you do; how much we're proliferating the use of liquor. And so I've done some math on that. I'm kind of a Tom Carlson type, that the math intrigues me. I did... [LB549]

SENATOR CHAMBERS: Um-hum. He probably didn't get an education at OPS, or he wouldn't know "A" from bullfrog. He'd think 2 plus 2 equals cat. But anyway, share with me the findings of your calculations, if you will. [LB549]

SENATOR WIGHTMAN: Well, I just used an assumption, and I'm basing that sum upon the questioning by Senator Loudon earlier, that that would be diluted. And at least...even at 100 proof, it would take 2 ounces to make 1 ounce in a shot glass. And you...there's 128... [LB549]

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SENATOR CHAMBERS: Say it again? It takes 2 ounces to make 1 ounce in a shot glass? [LB549]

SENATOR WIGHTMAN: No. If you were talking 200-proof liquor and you diluted that to 100 proof,... [LB549]

SENATOR CHAMBERS: Okay. [LB549]

SENATOR WIGHTMAN: ...that's 50 percent liquor. It would take 2 ounces then to make...or, 1 ounce to make 2 ounces in the shot glass. [LB549]

SENATOR CHAMBERS: Okay, now I'm following you. Okay. [LB549]

SENATOR WIGHTMAN: Okay. [LB549]

SENATOR CHAMBERS: And we don't know at this point whether, as Senator Loudon was trying to find out, it would be 21,000 gallons coming out of the still, or 21,000 after it's been cut. So are you going to take it as it comes out of the still, or as it's been blended, (inaudible) more? [LB549]

SENATOR WIGHTMAN: Well, I'm considering that it's been blended at this point. [LB549]

SENATOR CHAMBERS: Okay. [LB549]

SENATOR WIGHTMAN: Okay. There's 128 ounces in a gallon. [LB549]

SENATOR CHAMBERS: Okay. [LB549]

SENATOR WIGHTMAN: If you diluted that 2 for 1, there's 256 ounces in that gallon. [LB549]

SENATOR CHAMBERS: Okay. Well, no, not 256 ounces in the gallon. There would be 250... [LB549]

SENATOR WIGHTMAN: Of blended liquor. [LB549]

SENATOR CHAMBERS: Okay. Well, wait a minute. One hundred twenty-eight ounces of unblended liquor would equal a gallon? [LB549]

SENATOR WIGHTMAN: Right. [LB549]

SENATOR CHAMBERS: Okay. Then that gallon is not going to hold 256 ounces. You

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could produce two gallons out of that, but you would have to have two gallons. That one gallon wouldn't contain 256; it would still contain 128 of whatever it is, so we'd have to put another gallon over here. [LB549]

SENATOR WIGHTMAN: Right. (Inaudible)... [LB549]

SENATOR CHAMBERS: So we'd have two gallons out of that one. Just for the record,...okay. [LB549]

SENATOR WIGHTMAN: At any rate, using my assumptions,... [LB549]

SENATOR CHAMBERS: Well, see, I was educated at OPS, so you got to go slowly with me. Okay. [LB549]

SENATOR WIGHTMAN: ...that if we produce 256 ounces of 100-proof liquor out of every gallon, and took that times 21,000, I have 5,376,000 shots. That would be almost exactly 3 shots for every man, woman, and child in the state of Nebraska. And my concern is that we're calling this a microdistillery. [LB549]

SENATOR CHAMBERS: And Senator Wightman, although I didn't have the exact calculation I was going toward which you brought us to, what restaurant would legitimately serve that much liquor to the casual diner who would casually want something to accompany a meal? [LB549]

SENATOR WIGHTMAN: Well, not being that familiar with the restaurant industry, I would say, none in the state of Nebraska. But I don't know that. [LB549]

SENATOR CHAMBERS: Thank you. Now I'd like to ask the introducer of the bill a question. [LB549]

SENATOR LANGEMEIER: Senator Synowiecki, would you yield to a question? [LB549]

SENATOR SYNOWIECKI: Yes. [LB549]

SENATOR CHAMBERS: Senator, where did the 21,000 gallons annually come from? Where did that figure come from? Did the ones who brought the bill offer that figure? [LB549]

SENATOR LANGEMEIER: One minute. [LB549]

SENATOR SYNOWIECKI: I believe so, and I think that their...and I don't want to speak for them, but I think an examination of other states' microdistillery laws is what (inaudible)... [LB549]

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SENATOR CHAMBERS: But there is nothing that makes that number written in stone. Is that true? [LB549]

SENATOR SYNOWIECKI: No. [LB549]

SENATOR CHAMBERS: If I wanted to reduce that number to 10,000 gallons, that still would be a tremendous number of shots available. If I reduced it to 10,000 gallons, would you accept that amendment? [LB549]

SENATOR SYNOWIECKI: Let me talk to...I don't know. I know that they have no anticipation whatsoever of ramping up immediately to 21,000 gallons. I do know that. They said that at the public hearing. But I don't want to...if it is a successful business model and they're successful in competing with liquors that are shipped in from other states, then I also don't want to be an impediment to them, you know, being successful. [LB549]

SENATOR LANGEMEIER: Time. Senator Chambers, that was your third time. Senator McDonald is recognized. [LB549]

SENATOR McDONALD: Mr. President, members of the body, this bill was introduced to allow the operation of microdistilleries, also referred to as craft distilleries, here in the state of Nebraska. A microdistillery license would have the same duties and privileges as the microbrewery licenses. A microdistillery license is the same concept as a microdisillery...as a microbrewery, excuse me. But the product that is produced is spirits instead of beer. This type of operation does not fit into any of the liquor licenses that we already have. Under Nebraska law, one could get a manufacturer's license. What would be different for microdistillery license is that that license would be able to manufacture and retail their own spirits within their licensed retail location. Understand that it's within their licensed retail location, so you can't have a home brewery and call it a microdistillery and be within the law. The establishment, like a restaurant, would have to have...to obtain the licenses that allow them to operate a microbrewery and sell alcohol on the premises. However, if a microdistillery wanted to sell their product to other retailers, for example, they...if they wanted their product sold in stores, they would have to use a wholesaler and would not be able to bypass the three-tier system, so they would have to sell to a wholesaler, which sells to a retailer. So they couldn't just sell it themselves. They would have to go through the system. A microdistillery would be required to pay the same tax rate as other spirit manufacturers, and would fall under the jurisdiction of the Alcohol and Tobacco Tax and Trade Bureau, and that is a regulated federal agency from which it must receive a license to operate a distillery. This bill would allow craft breweries or restaurants to expand their business in a unique way. It is a growing concept, and is a high-end, limited-production business, and it would be taxed and monitored by the same standards as other manufacturers. So it's just allowing us to

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have microdistilleries in a restaurant that wants to do this, but not be able to take alcohol out. You would have to consume it there, just like you would consume any other alcohol on-premise. Thank you. [LB549]

SENATOR LANGEMEIER: Thank you, Senator McDonald. Senator Wightman is recognized, then Senator Synowiecki. [LB549]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I would ask if Senator McDonald would yield to a question or two. [LB549]

SENATOR LANGEMEIER: Senator McDonald, will you yield to a question? [LB549]

SENATOR McDONALD: Yes, I will. [LB549]

SENATOR WIGHTMAN: Senator McDonald, how many gallons do we allow under the microbrewery law with regard to the manufacture of beer? [LB549]

SENATOR McDONALD: You know, that's a question for someone higher up than me. I do not know. I'm just the Chairman of the committee. This is my first year and I don't know the intricate laws of the state regarding microbreweries. Sorry. [LB549]

SENATOR WIGHTMAN: So you don't know whether that is 21,000? [LB549]

SENATOR McDONALD: Oh, I can answer that question,... [LB549]

SENATOR WIGHTMAN: Thank you. [LB549]

SENATOR McDONALD: ...with the help of Senator Chambers. Maximum of 10,000 barrels of beer per year. [LB549]

SENATOR WIGHTMAN: Ten thousand barrels. Do you know how many gallon are in a barrel? [LB549]

SENATOR McDONALD: No, I don't. I don't even know how big a barrel is. [LB549]

SENATOR WIGHTMAN: Well, I don't know that either, but I thought perhaps those who are... [LB549]

SENATOR McDONALD: (Laugh) Do you know the answer to that question? [LB549]

SENATOR WIGHTMAN: No, I'm trying to find out from you, Senator McDonald. [LB549]

SENATOR McDONALD: Oh. I always heard that Senator Chambers never asks a

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question he does not know the answer to, and I just thought maybe you were tricking me or something. [LB549]

SENATOR WIGHTMAN: Well, I don't know how we freshmen senators are to be educated if we can't ask any question that we do not know the answer to. [LB549]

SENATOR McDONALD: (Laugh) [LB549]

SENATOR WIGHTMAN: I would ask if Senator Synowiecki then maybe would yield to that. [LB549]

SENATOR LANGEMEIER: Senator Synowiecki, would you yield to a question? [LB549]

SENATOR SYNOWIECKI: Yes. [LB549]

SENATOR WIGHTMAN: Senator Synowiecki, do you know how many gallons are in a barrel as we apply it to the brewery industry? [LB549]

SENATOR SYNOWIECKI: The...what I'm told, Senator Wightman, is that the amount embodied within LB549 represents one-third less alcohol than the brewpub law. [LB549]

SENATOR WIGHTMAN: Less alcohol. [LB549]

SENATOR SYNOWIECKI: Yes. [LB549]

SENATOR WIGHTMAN: Under the distillery. [LB549]

SENATOR SYNOWIECKI: Yes. [LB549]

SENATOR WIGHTMAN: How did you arrive, if I can pursue that line of questioning, how did you arrive at 21,000 gallons? [LB549]

SENATOR SYNOWIECKI: Well, you give me an opportunity then to be responsive to Senator Chambers. That actually came from Bill Drafting, 21,000 gallons, and if you compare and contrast that to other states that have microdistillery establishments in their states for tourism and economic development purposes, it's lower. It's a lower amount. [LB549]

SENATOR WIGHTMAN: One other question, if you would yield, and that is that this act does provide that the microdistillery can sell to retailers. Is that correct? [LB549]

SENATOR SYNOWIECKI: Only if they abide by the three-tier system. My...if you...I have my light on. I'll be willing to give you my time, Senator Wightman. The individuals

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that brought me this legislation from my district that run a microbrewery, they--and I said this during the hearing--they certainly dotted their I's and crossed their T's. I sat down with them, with the liquor industry in our state. I sat down with them, with the beer industry in our state and their representatives and we hashed out everything, and as a result, the...as the committee statement indicates, there was no one in opposition, including from the liquor industry within the state of Nebraska. So it's...we have an array of liquors, hard liquors, available for consumers in the state of Nebraska. The question is, do you want some of those to be home-brewed and do you want to have employees, Nebraska state employees, do it...not state employees, but Nebraska employees, Nebraska workers making this product? Do you want to enhance and engage more tourism and so forth? In my opening, it was a remarkable testimony, I thought, from Pawnee City, Nebraska, in a brewpub and winery down there drawing some 10,000 tourists within the span of one year. I thought that was pretty remarkable. And they're very much in favor of this. They may not distill right away. They'll probably wait to see. [LB549]

SENATOR LANGEMEIER: One minute. [LB549]

SENATOR SYNOWIECKI: My constituent, I guess, will be kind of the guinea pig on this of whether or not it be successful, but... [LB549]

SENATOR WIGHTMAN: Do I have time remaining? [LB549]

SENATOR LANGEMEIER: You do have 51 seconds. [LB549]

SENATOR WIGHTMAN: Well, just to put the bill in perspective, even if 10,000 tourists visited the establishment in Pawnee City, which I believe it was, in a year's time, and we provide a bill that will allow the number of drinks to be produced, which I compute to be about 5 million, or 5 million drinks, we are talking about those 10,000 being able to consume about 500 drinks per tourist, it would appear to me. I may be high on that; probably 500 may be closer. But whatever it is, it just seems to me we're going far beyond what I would consider a microbusiness or a microdistillery. [LB549]

SENATOR LANGEMEIER: Time. [LB549]

SENATOR WIGHTMAN: I'll yield the rest of my time, which might be 5 seconds. [LB549]

SENATOR LANGEMEIER: Thank you, Senator Wightman. (Visitors introduced.) Mr. Clerk, do you have an amendment? [LB549]

ASSISTANT CLERK: Mr. President, I do. Senator Chambers would move to amend LB549 with FA11. (Legislative Journal page 483.) [LB549]

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SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Chambers, you're recognized to open on your floor amendment, FA11. [LB549]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm not a prude, I'm not a puritan, and I'm...okay, that's enough. What my amendment would do is reduce that gallonage per year from 21,000 to 10,000, and I think that's excessive. We don't need more outlets for hard liquor in this state. This bill is not essential for the welfare of any segment of this society. There is no uplift that can be shown to result from more hard liquor being made available. If these restaurants can dispense hard liquor, let them buy from wherever they're buying it, but what this is going to do is add more to the total amount of hard liquor available legally in this state. I don't want that to happen. I could try to kill the bill, and maybe ultimately that will be the approach I will take. I want to see how many of my colleagues who at other times are going to moan and whine about drunk driving, moan and whine about the young people being minors in possession, moan and whine and talk about how devastating the illegal consumption of liquor can be, yet, the example that the young people have is provided by all the best people in society. Look who's in this Chamber. Well, maybe you shouldn't look too hard, but let me, for the sake of this example. You've got the best that Nebraska can produce, and maybe you do, really. And they're saying make more liquor available, more stills available. In the spirit of what Senator Loudon was saying, there was a song that said the sun shines on the roof but the moonshine's in the cellar. Now, Senator "Snicky" may not know what moonshine is either if he didn't know what white lightning is. I'm listening for somebody to tell me the societal benefit to come from this bill. There can be the generalized statements about tourism, which is always the refuge of those who don't have a solid argument to support something. Restaurateurs will make more money if they can have their stills on the place and produce enough to sell more than a million shots a year. I hear so much moaning and whining about how devastated the restaurant industry is. There are smaller ones going out of business almost every day, even in Omaha. So why should this bill be enacted into law? Because Senator "Snicky" is trying to help some constituents of his get what they want, which is to make more hard liquor available that is produced on the place, but since it's not going to be consumed on the place because they will not have that many customers, the idea is for them to be able to sell it and make money. And what difference does it make if they say, well, you have to meet the same standards as anybody else selling it? Well, if I decide to become a whiskey seller, I know that's what I'm going to have to do. And I'd want to be able to distill my own whiskey, if I want to. I'd like to ask Senator Synowiecki a question, and I hope I didn't mispronounce his name by putting those silent letters in. Senator Synowiecki,... [LB549]

SENATOR LANGEMEIER: Senator Synowiecki, would you yield to a question? [LB549]

SENATOR SYNOWIECKI: Yes. [LB549]

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SENATOR CHAMBERS: ...what is the highest proof that hard liquor can be and be legally sold in this state? Is there any maximum? [LB549]

SENATOR SYNOWIECKI: Okay. It's, under the bill, under this bill for Nebraska-made products, it'd be 100 proof. It's... [LB549]

SENATOR CHAMBERS: Okay. [LB549]

SENATOR SYNOWIECKI: ...actually lower than other states. [LB549]

SENATOR CHAMBERS: Okay, 100 proof. And if we accept what Senator Louden told us, that when the stuff comes straight out of the still it's 180 proof, are we talking about 21,000 gallons of 100 proof, or 21,000 gallons of 180 proof? Because 180 proof (inaudible)... [LB549]

SENATOR SYNOWIECKI: Senator Chambers, a lot of this won't be on the upper end in terms of alcohol content. A lot of this will be 70 proof, 60 proof. You know,... [LB549]

SENATOR CHAMBERS: That doesn't answer my question. [LB549]

SENATOR SYNOWIECKI: ...you can walk into any liquor store or any liquor license establishment in our state, Senator Chambers, and buy any assortment of hard liquors. This is having an ability for Nebraska-made products to compete with some of the products that come into the state. [LB549]

SENATOR CHAMBERS: That simply doesn't answer the question, Senator Synowiecki. [LB549]

SENATOR SYNOWIECKI: Well,... [LB549]

SENATOR CHAMBERS: I'm going to ask it again. And having been educated in OPS, I know that my English might be somewhat difficult to understand, so I'm going to speak as slowly and clearly as I can. If this distilled beverage, when it comes out of the still, is 180 proof, and your bill says that the proof of this beverage which is going to be produced and distributed under your bill cannot be more than 100 proof, when we get to the definition, and the definition says no more than 21,000 gallons annually can be produced, will that 21,000 gallons comprise 180 proof or 100 proof? Which is the measure? [LB549]

SENATOR SYNOWIECKI: It can...the final product will be much less than 100 proof. They cannot... [LB549]

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SENATOR CHAMBERS: So then 21,000... [LB549]

SENATOR SYNOWIECKI: ...they cannot distill liquor at an alcohol content rate of 180. It's 100 proof,... [LB549]

SENATOR CHAMBERS: So... [LB549]

SENATOR SYNOWIECKI: ...is what I'm told. [LB549]

SENATOR CHAMBERS: ...so you mean that you want to allow 21,000 gallons of 180 proof whiskey, white lightning, moonshine to be produced in this microdistillery. Is that true? When they came to you, they said, we want 21,000 gallons of 180 proof. Is that what they said, or they didn't make a distinction? [LB549]

SENATOR SYNOWIECKI: Okay, it's my...Senator Chambers, it's my understanding that the maximum proof, or when you say "proof" I think you're meaning the pure alcohol content within the product, cannot exceed 100 proof. And I think there are a variety of products on our shelves now throughout Nebraska. There's, you know, hundreds... [LB549]

SENATOR CHAMBERS: But I'm just talking about this. [LB549]

SENATOR SYNOWIECKI: ...of thousands of gallons of... [LB549]

SENATOR CHAMBERS: I'm just... [LB549]

SENATOR SYNOWIECKI: ...distilled spirits that come to the state and anyone can buy any of these. [LB549]

SENATOR CHAMBERS: And that's not what I'm talking about. [LB549]

SENATOR SYNOWIECKI: And I got my light on. I could...it's 100 proof, 21,000 gallons up to 100 proof is what I'm told. [LB549]

SENATOR CHAMBERS: Okay, 100... [LB549]

SENATOR SYNOWIECKI: Not 180. They can't do 180 proof. [LB549]

SENATOR CHAMBERS: Okay, 21,000 gallons. Now my amendment says we reduce that amount to 10,000 gallons. Did these people who come to...who came to you tell you that that amount that they would make under this bill will be consumed on the premises? Did they tell you that falsehood? [LB549]

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SENATOR SYNOWIECKI: Senator Chambers, their ultimate...and I got my light on, I'll give you time (inaudible). [LB549]

SENATOR CHAMBERS: Go ahead. I'm not going to cut you off. [LB549]

SENATOR SYNOWIECKI: I just want to be responsive. Senator Chambers, there is no way they're going to make up to 21,000 gallons as a start off, but their long-term business plan is for them to be competitive on the market with all these ship-in distilled spirits. And what they want to do, ultimately, under the long-term business plan, is to market their products throughout the state and perhaps out of the state, but particularly within the state they want to market their product so it competes with Seagram's and your different... [LB549]

SENATOR CHAMBERS: Canadian Club. [LB549]

SENATOR SYNOWIECKI: Canadian Club,... [LB549]

SENATOR CHAMBERS: Johnny Walker. [LB549]

SENATOR SYNOWIECKI: ...those sorts of things. (Laugh) [LB549]

SENATOR CHAMBERS: John Barleycorn. [LB549]

SENATOR SYNOWIECKI: They want...and this would be a Nebraska-made product that would compete with these other distilled spirits that, you know, you're talking about 21,000 gallons compared and contrasted with what comes into this state? [LB549]

SENATOR LANGEMEIER: One minute. [LB549]

SENATOR CHAMBERS: I don't even...well, I'd like to stop that, too, but we can't. Here's what I'm going to ask you then. Are you willing to reduce the amount that can be made on the premises and served on the premises of a restaurant or in a hotel? [LB549]

SENATOR SYNOWIECKI: Is it your intent then that the 10,000 gallons be restricted to what could be consumed, or what can be made at a microdistillery? [LB549]

SENATOR CHAMBERS: Produced. Produced. Because under your bill that amount can be produced on the premises of a restaurant, isn't that true, if it has a liquor license? [LB549]

SENATOR SYNOWIECKI: Yes, and... [LB549]

SENATOR CHAMBERS: So are you willing...but it also can apply in places other than a

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restaurant. Is that true? [LB549]

SENATOR SYNOWIECKI: Well, it would have to be a liquor...no, it's not true. It would have to be a liquor establishment that is a current...that holds a liquor license to sell liquor products. [LB549]

SENATOR CHAMBERS: So it could be a bar or a tavern. Isn't that true? [LB549]

SENATOR SYNOWIECKI: Yes. [LB549]

SENATOR CHAMBERS: Okay. So we're not just talking about a restaurant. We're talking about full-fledged liquor establishments. [LB549]

SENATOR LANGEMEIER: Time. [LB549]

SENATOR CHAMBERS: Thank you, Mr. President. [LB549]

SENATOR LANGEMEIER: You have heard the opening of FA11, offered by Senator Chambers. Senator Synowiecki, you're recognized to... [LB549]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier. And I just would like, if Senator Chambers would want some of my time, I would just like to indicate that the individuals that brought me this bill are constituent entrepreneurs that, back when the microbrew beer statutes were amended to allow for microbreweries, they take...they took a heck of a chance in terms of putting in enormous investment into their establishment and this investment into the microbrew system, it's down there in the Old Market, is what it is, they put up a substantial amount of money for these individuals. Luckily, it has turned out, it's a successful business. This establishment is a restaurant and they've done quite well, and now they've expanded to another location within the city, and now they want to try to see if perhaps, since a lot of the mechanisms to brew beer, a lot of that could be used to distill spirits as well. I can assure Senator Chambers and anyone else that has any problems with what they're trying to do, they're not looking to make some kind of cheap moonshine type product. Their business plan, what they intend to do is to market to the higher end product so that they can compete with the, like, the CCs and so forth. They're not going to put all this investment in to sell, you know, a cheap gallon of wine or a distilled spirit to consumers. Their business plan calls for a very, very narrow market, if you will, of higher-end distilled spirits. They wouldn't come to me, I don't think, and I don't think they would provide for the investment to microdistill if it was to sell on the lower end of that market. We've got...I wish I knew how much distilled spirit comes to our state. I can assure you it is 1,000 times this 21,000 gallons that Nebraska business people want to try to compete in this market, and they want to try to compete within the distilled spirit market with Nebraska-made products using Nebraska corn, Nebraska wheat, as they do now with their microbrewery. They

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now have in excess of 200 employees for these two establishments, and when they came to me with this bill, I was intrigued and I wanted to do what I could to help them grow their business and grow the utilization of Nebraska-bred products and to increase their payroll, quite frankly. And I think if we give them the opportunity they will do this and...as they did with the microbrew law. And I would yield the remainder of my time Senator Chambers, since I chewed up a lot of his time last time. [LB549]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. Senator Chambers, you have a minute. [LB549]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I'd like to ask Senator Synowiecki a question. Senator Synowiecki, will they make corn liquor? [LB549]

SENATOR LANGEMEIER: Senator Synowiecki, would you yield to a question? [LB549]

SENATOR CHAMBERS: Will they use corn to make this liquor, among other substances? [LB549]

SENATOR SYNOWIECKI: Yes, I will yield, and, Senator Chambers, I don't know. I suspect they use corn, wheat, and I could look at their testimony. [LB549]

SENATOR CHAMBERS: Rye, barley, and... [LB549]

SENATOR SYNOWIECKI: Yeah. [LB549]

SENATOR CHAMBERS: ...and sugar in beets, carrots, and whatnot. But at any rate, they might use some of the grains that are produced in Nebraska to make this liquor, perhaps. [LB549]

SENATOR SYNOWIECKI: I believe they will. [LB549]

SENATOR CHAMBERS: Okay. [LB549]

SENATOR SYNOWIECKI: And that's what they've informed me of. [LB549]

SENATOR CHAMBERS: So you go...Senator Lathrop goes across the street and puts ethanol, which is corn gasoline, in his car, then he comes over to Senator Synowiecki and puts corn liquor in his gullet. That's kind of what we're looking at here, huh, a complement, c-o-m-p-l-e-m, a complement to ethanol in the car? We want to put some corn... [LB549]

SENATOR LANGEMEIER: Time. [LB549]

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SENATOR CHAMBERS: Okay. Thank you, Mr. President. [LB549]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki and Senator Chambers. We have Senator McDonald, Chambers, Nelson. Senator McDonald, you're recognized. [LB549]

SENATOR McDONALD: Mr. President and members of the body, the microdistillery bill was mirrored after the microbrewery bill, and thanks to Senator Chambers showing me what the microbreweries allow, and that's 10,000 barrels of beer, but we're not comparing apples to apples here. When we do 10,000 barrels of beer that is allowed, that creates 15,000 gallons of pure alcohol. If we compare that to our microdistilleries, 21,000 gallons of distilled liquor "equivalates" to...is equal to 10,500 gallons of pure alcohol, much less than the pure alcohol that is created from the 10,000 barrels. Twenty-one thousand gallon, is that a magic number? No, it's not, but various other states do have micodistilleries, and that is about the average number that they allow. Some of them have up to 50,000, but because this is a small producer, we want to keep it small, we don't want to expand more than that, that's where the 21,000 came from. Not a magic number, but that's what other states are doing. So we really can't compare the 10,000 gallons of beer to the 21,000...or 10,000 barrels of beer to the 21,000 gallons of alcohol. It "equivalates" the same amount and that's why. It was mirrored after the microbrewery bill. That's why we created that number. Thank you. [LB549]

SENATOR LANGEMEIER: Thank you, Senator McDonald. Senator Chambers. [LB549]

SENATOR CHAMBERS: Thank you, Mr. President. You know why it's difficult to compare Nebraska to any other state? Nebraska has about 1,780,000 people in the whole state. Now why in the world would they be allowed to generate as much whiskey as is generated in a state that has cities with five times more people than the state of Nebraska has? This bill is not something that is a positive good. The preachers didn't ask for it. They can get enough liquor...they can go get a gallon of Mogen David and maybe take care of their religious drinking for a month, or whatever wine they drink and serve up in church to the children. This is not a good bill. Beer and whiskey are not the same thing. Beer is regulated differently from whiskey. A license to sell beer is not giving you the right to sell whiskey, so to simply take a system over here, the brewpub that allows you to brew beer, and say we're going to let the same thing be done over here with whiskey should not be done. They like to say comparing apples to oranges. These are not the same beverages. They do not produce the same effect when you give the same volume of each to a person. Whichever has the greater concentration of alcohol is going to have the greater effect on the person when it's consumed as opposed to beer. My amendment reduces this amount to 10,000, which I think is still excessive. Senator Synowiecki continues to tell us that none of these people are going to invest in an operation that would produce 21,000 gallons no matter how we arrive at that figure. Then why not start at 10,000? Why not? Because these people are greedy

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and they can maneuver this Legislature because the liquor industry has power here. When we were talking about a bill of Senator Kruse's...he's absent. He's missing in action. Senator Kruse, where in the world are you? He's not on this floor. We're talking about consuming alcohol under circumstances which might result in a person leaving with that alcohol in his or her system and getting behind the wheel of a car. His bill was trying to find a way to trace the origin of these beer kegs that are winding up in the hands of young people at these beer bashes. They want to get to the adults who may be purchasing and making them available, because the youngsters cannot purchase these things on their own. But there were certain steps that would not be put into the law because they would be too inconvenient to the liquor industry. We were talking about the welfare of children, underage drinking, but the overarching concern was with the convenience of the liquor industry. So here comes the liquor industry again. I know they oil you all up at every gathering that you go to. What is happy hour and all these other...? I don't go to any of those things that they give to the senators, but I look at some of the invitations. [LB549]

SPEAKER FLOOD PRESIDING [LB549]

SPEAKER FLOOD: One minute. [LB549]

SENATOR CHAMBERS: At one point I was going to save all of them and see how many liquor-consuming opportunities there were for the legislators; then maybe I'd have a better understanding of why their conduct can be so erratic on occasion. They bring the liquor in, they bring John Barleycorn in, in the demijohn. Then it winds up in the gullet of Senator John, whoever that might happen to be. I'm just pulling a name out of the air to go along with demijohn. Do you all think you're serving your constituents when you pass this bill? How many of you, when you were wearing out all that shoe leather you told us about, told your constituents, one of the things I'm going to do is make more outlets of liquor available, make it possible for more people to distill liquor and dispense it? A lot of liquor is coming into the state from outside, so more liquor needs to be produced domestically. [LB549]

SPEAKER FLOOD: Time, Senator Chambers. [LB549]

SENATOR CHAMBERS: Thank you, Mr. President. [LB549]

SPEAKER FLOOD: Thank you, Senator Chambers. The Chair recognizes Senator Nelson. [LB549]

SENATOR NELSON: Senator Langemeier and members of the body, Mr. Synowiecki, I have a question for you, if I may. [LB549]

SPEAKER FLOOD: Senator Synowiecki, will you yield to a question from Senator

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Nelson? [LB549]

SENATOR SYNOWIECKI: Mr. Speaker, I will yield from a question from Senator Nelson. [LB549]

SENATOR NELSON: Senator Synowiecki, you have referenced that these people are constituents of yours. Actually, I think Brian Magee is a constituent of mine, at least he's in my district, but the brewery may be in yours. I gather that you met with them and you're familiar with their operation, as am I. But when you go down to the Upstream Brewery there's a large area of gleaming steel equipment there. Did they indicate to you...are they going to be able to use that same equipment or are they going to have to install additional distillery equipment? [LB549]

SENATOR SYNOWIECKI: Senator Nelson, that's a good question. They will invest...they will use as the basis point their original equipment, but they're looking at a \$400,000 investment to distill and so it's kind of a combination. A lot of, like, the wheat and the corn and potatoes, whatever they use to brew, can also be used to distill, so there will be some piggybacking, but their business plan calls for a \$400,000 investment. [LB549]

SENATOR NELSON: Well, thank you. I'm glad to have that figure. I'm surprised. I would have thought it would have been substantially more. I just want to say that the Upstream Brewery is a very successful operation, as you have, and even though I'm not a...I don't drink beer myself, I'll reference my two sons who always, when they came back from college, made it a point to go down to the Upstream. In fact, the one son took 50 members of his class there because he thought it was a great place to go and he also was able to show them the Old Market, and they were impressed. It seems to me that if they are going to put in that type of investment, that it's not unreasonable to be able to produce 21,000 gallons a year. I would think, to make it play out and to be financially successful, probably that figure is pretty good. I don't know where Senator Chambers comes with his 10,000 dollar (sic), maybe that is a good start, but it seems to me that 21,000 is reasonable under the circumstances. And I'll return the remainder of my time to the Chair. [LB549]

SENATOR LANGEMEIER PRESIDING [LB549]

SENATOR LANGEMEIER: Thank you, Senator Nelson. Senator Synowiecki, you're recognized, with Kruse to follow. [LB549]

SENATOR SYNOWIECKI: Thank you, Senator Nelson. I...some information that's been given to me relative to Senator Chambers' amendment to lower the amount to 10,000 gallons. You know, I'll just leave it up to the body. I probably won't vote, but I understand the bill might be in for some repercussions if it's not passed. But one thing you should

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know is that the 21,000 gallons, as represented in the bill right now, represents .02 percent, .02 percent of all imported distilled spirits into our state. What my constituents want to do, and Senator Nelson's constituent, but my business constituent wants to compete with those imported distilled spirits and provide for Nebraska jobs and the use of Nebraska products in the development and the making of these distilled spirits, as is not done currently. We're talking about point...not even 1 percent, less than .5 percent of the distilled spirits now available in Nebraska retail liquor establishments. You're talking about a very, very narrow part of the market overall. Let me also...I've been given some information that the state of Montana has a microdistillery...allows for microdistilling. They have 902,000 people, and their microdistilleries allow for the production of 28,000 gallons of distilled spirits, to give you kind of a point of reference of where we're at. So two things as far as a point of reference: The 28,000 (sic) gallons represents .02 percent of the distill...of the spirits available now to consumers in Nebraska. The state of Montana, which has established a microdistillery bill, allows for the production of 28,000 gallons and they have less than a million people. They have a 902,000 population. I just thought you may want that information as a point of reference relative to Senator Chambers' amendment. Thank you, Senator. [LB549]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. Senator Kruse, you're recognized. [LB549]

SENATOR KRUSE: Mr. President and colleagues, thank you. Senator Chambers wonders where I am. I'm watching very carefully as this is being discussed, and appreciate the discussion and appreciate his amendment. However, in terms of the subject before us, I don't find that piece that really interests me. I'm not going to stand in the way of competition that we can provide to other distilleries in other parts of the country. That, you know, that's a business decision and those kind of things need to be made and I wouldn't claim to be an expert on it. What disturbs me as we look at it is really not before us, and that is that our taxes on this product don't pay the bill, don't pay our bill on this floor. They don't pay it by a long ways, and I just want us to understand (laugh) that while we're encouraging this kind of industry, the industry pays about 10 percent of the cost, the direct cost, we will have from it. About \$300 million is the most conservative figure I've seen for the state, and we get about \$30 million. So put that into your factoring part of your mind as we look at these kind of things. Again, it's certainly in our interest to compete with other distilleries and to watch all businesses to see that they have a level playing field. Thank you. [LB549]

SENATOR LANGEMEIER: Thank you, Senator Kruse. Senator Chambers, there are no other lights on. This would be your third time, or you could use it as your closing. You're recognized. It's your third time. [LB549]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, if this amendment is adopted, I still don't like the bill but I'll leave it alone. I'm basing my

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amendment on what we were told. You all don't pay attention on this floor to what speakers are saying. I'm not going to call a certain senator to my right across the aisle, sitting in the middle desk, by name, but if he'd pay attention he'd see that my amendment is not going contrary to what Senator "Snicky" told us. Now he's the one who said they're not going to start with 21,000 gallons. This figure, according to what my seatmate in the culture corner said, is not magic, 21,000. It's not magic. It's not abracadabra. It's not presto chango. It was taken, looking at what might be done in other states. That gentleman asked where...he doesn't know where Senator Chambers comes from with his 10,000. It came out of my head. My brain is working and I'm listening to what Senator Synowiecki said and I'm processing it. Ten thousand gallons a year is enough to start with. He told us that they're not going to jump right in with this amount. Take my amendment and hush me up. That's what you can do. You're not going to get a better deal than that. Why, if I were the Mafia, I'd say I'm offering you something you can't refuse. This is a deal you can't pass up. You're not going to get this kind of deal often. Let me ask Senator Synowiecki a question or two, if I may. I feel almost intoxicated I'm having so much fun. [LB549]

SENATOR LANGEMEIER: Senator Synowiecki, would you yield to a question? [LB549]

SENATOR SYNOWIECKI: Yes, I will. [LB549]

SENATOR CHAMBERS: Senator Synowiecki, in your experience down here, how many times have you seen a deal of the kind that I'm offering where I don't kill a bill, where I say I'll leave the bill alone, and I'm basing an amendment on what I've been hearing from the introducer? How many times have you seen me make a deal like that? [LB549]

SENATOR SYNOWIECKI: Well, quite a few times, Senator, and if you...I've had opportunity to engage with my constituent business relative to this and they're willing to accept the 10,000 gallons at this point,... [LB549]

SENATOR CHAMBERS: Okay. [LB549]

SENATOR SYNOWIECKI: ...again, because as you indicated and as I indicated on the floor, this is a startup. They're going to have quite a bit of investment, and they had no illusions whatsoever that they would ramp up to 21,000 gallons. It's going to take some...quite some time for them to arrive at that. So in terms of their immediate plans, immediate business plans, they will live with the 10,000 gallon maximum, although it's kind of out of whack on the minimum side relative to other states and relative to the amount of distilled spirits that flows to our state. [LB549]

SENATOR CHAMBERS: Well, they don't have me in a...thank you, Senator Synowiecki. They don't have me in another state to deal with, so they get anything through their legislature that they want. That's why I don't go by what these other states have. They

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have nobody like me anywhere in the country. But the reason I started talking earlier about that monitoring, how are we going to monitor how much is actually produced if there's no monitoring? And Senator Synowiecki acknowledged that they're not going to start at 21,000 gallons immediately. I'm cynical. I'm suspicious. I don't think these people would be--I'm telling you my opinion--would be above being a front for the distribution of liquor that comes from someplace else, maybe even from outside the state. They're not going to produce it themselves. They can buy all the bottles that they want to. They can put it in their bottle and do things that are not contemplated by the people on this floor. [LB549]

SENATOR LANGEMEIER: One minute. [LB549]

SENATOR CHAMBERS: Maybe nobody else thinks like that, but I do, and I act in accord with my thoughts. Since Senator Synowiecki said that his constituents will accept the 10,000 in place of the 21,000, I'm going to let this be my close and we...my closing and I will take a vote on that amendment. Senator Synowiecki said...Senator Synowiecki, will you support it? Senator Synowiecki said...he nodded, yes, he will support it. Thank you, Mr. President. [LB549]

SENATOR LANGEMEIER: Senator Chambers, there was another light on. Senator McDonald is recognized. [LB549]

SENATOR McDONALD: Mr. President and members of the body, I encourage you to support Senator's generous amendment on this bill. Certainly I think the people that were looking at microdistilleries were hoping that once this passed they wouldn't have to come back at a later time, if their business got going, and ask for an additional amount of liquor to be produced, but this is a start. It will allow them to start their business, and if so be in the future years, if they decide that they need to come back, then a new body will make that decision. So I encourage you to support Senator Chambers' amendment and to pass the bill. Thank you. [LB549]

SENATOR LANGEMEIER: Thank you, Senator McDonald. Seeing no other lights on, Senator Chambers is recognized to close. [LB549]

SENATOR CHAMBERS: Thank you. Mr. President, usually we say you must crawl before you walk. Well, really you, in this instance, you must stagger before you walk. That is my closing. I will ask for a call of the house because I don't see many of us here, and then I'll take a machine vote. [LB549]

SENATOR LANGEMEIER: Thank you, Senator Chambers. There has been a request for a call of the house. Do I see...there's been a request for the call of the house. The question, shall...will be, shall the house go under call? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB549]

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ASSISTANT CLERK: 28 ayes, 1 nay to go under call, Mr. President. [LB549]

SENATOR LANGEMEIER: The house is under call. Senators, please record your presence. Those 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 Heidemann, Senator Johnson, Senator Schimek. The house is under call. Seeing that all senators are accounted for, you have heard the closing on the amendment, floor amendment FA11, offered by Senator Chambers. The question is, shall the amendment be adopted? All those in favor vote yea; all those opposed vote nay. Has everyone voted that wishes to? Record, Mr. Clerk. [LB549]

ASSISTANT CLERK: 41 ayes, 1 nay on the adoption of Senator Chambers' amendment, Mr. President. [LB549]

SENATOR LANGEMEIER: The amendment is adopted. The call is now raised. Mr. President (sic). [LB549]

ASSISTANT CLERK: Mr. President, I have nothing further on the bill. [LB549]

SENATOR LANGEMEIER: We will return to discussion. Senator Kruse is recognized to discuss. [LB549]

SENATOR KRUSE: Mr. President and colleagues, just one further comment about this bill. I was distancing myself from it and I don't intend to leave that impression. I strongly support the microdistilleries for a different reason than some others may. That is because the more business you can take away from the nationals, the happier this senator is. The nationals are the ones who put up a zillion dollars to target our youth with the alcohol ads, and we have proven time again, Tom Osborne has shown it within a lot of studies and evidence, that it is a targeting of youth that these groups do. So again, I strongly support any business we can take away from them. Thank you. [LB549]

SENATOR LANGEMEIER: Thank you, Senator Kruse. Seeing no other lights on that wish to discuss this bill, Senator Synowiecki, you are recognized to close on LB549. [LB549]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier. How come I can't get any of these easy bills? You all put me on the hot seat every time I got a bill up here, so...appreciate the dialogue. I appreciate the conversation relative to this. As I indicated, I brought this bill on behalf of some good corporate citizens in my district that want to implement and want to expand the scope of their business in an attempt to compete with what Senator Kruse alluded to, was what he called the nationals. As the bill was

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originally written, it called for a maximum of .02 percent of the total market for distilled spirits in our state, and that's been significantly reduced with the Chambers amendment. But I do think that what we're trying to do here is essentially have Nebraska-based products using Nebraska workers and having an ability to compete with these nationals using our products and our labor, and I think that's a win-win situation for the state of Nebraska. I want to assure individuals that this will be closely monitored by both the tax and trade bureau of the United States government, and the Nebraska Liquor Control will audit and check for proper recordkeeping of the amounts of liquor distilled under the act. I would hope that you can support LB549. We'll get it on to Select File and perhaps the dialogue will continue, as I'm sure it will at that point. Thank you, Senator Langemeier. [LB549]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. You have heard the closing on the advancement of LB549 to E&R Initial. All those in favor vote yea; all those opposed vote nay. Have all those that wish to vote voted? Record, Mr. Clerk. [LB549]

ASSISTANT CLERK: 33 ayes, 7 nays on the motion to advance the bill, Mr. President. [LB549]

SENATOR LANGEMEIER: The bill advances. Mr. Clerk, items for the record? [LB549]

ASSISTANT CLERK: Mr. President, I do. Executive Board reports LB34 and LB402 advanced to General File; and a series of notice of committee hearings offered by the Government, Military and Veterans Affairs Committee. (Legislative Journal pages 483-484.) [LB34 LB402]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Today is Senator Wallman's birthday. In recognition of this event, the senator has graciously provided the cookies that have been passed around, that you are seeing coming around here in a minute. Happy birthday. Mr. Clerk, next item on General File. []

ASSISTANT CLERK: Mr. President, LB211, offered by the Business and Labor Committee and signed by the members of that committee. (Read title.) Bill was read for the first time on January 9; referred to the Business and Labor Committee. That committee reports the bill to General File with committee amendments attached. (AM177, Legislative Journal page 441.) [LB211]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Cornett, you're recognized to open on the committee bill, LB211. [LB211]

SENATOR CORNETT: Thank you, Mr. President and members of the body. I am going to go ahead and open on the committee amendment to...AM177, as well as the bill. The amendment has become the bill. The committee introduced LB211 on behalf of the

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judges of the Commission of Industrial Relations. This bill would increase the pay rate for the judges of this commission. Currently under Nebraska Revised Statute Section 48-806, these judges are paid \$250 per day plus travel expenses. Under the original version of LB211, they would be paid the daily equivalent of a district judge's salary. AM177 would reduce that amount to the level of the county judges' salary, which is 90 percent of a Supreme Court Justice's salary. When the committee considered this amendment, it was our understanding that the judges would be paid one-twentieth of the hundred...one...excuse me, \$114,161.40, which equates to \$475.67 per day of work, plus travel expenses. This morning our office received some concerns and it was brought to our attention about the daily...how the daily salary would be calculated. It has been the state's practice to calculate a daily rate based on 260 days in a year, and then therefore I intend to introduce an amendment between General and Select Files to correct any ambiguity in the current language. Finally, I want to briefly touch on some of the reasons why the committee chose to introduce the bill. I think it is important to note that all of the other judges' salaries in the state are calculated as a percentage of a Supreme Court Justice's salary. The Legislature has not increased the salary for the Commission of Industrial Relations since 1991, which is 16 years ago. Based upon the salaries paid to other judges in the state of Nebraska, the Commission of Industrial Relation judges are significantly underpaid. In recent years it has been difficult to find qualified attorneys who are willing to serve as judges for the commission due to the low reimbursement rate. I would ask for your support in adopting the committee amendment. Thank you. [LB211]

SENATOR McDONALD PRESIDING [LB211]

SENATOR McDONALD: Thank you, Senator Cornett. As the President (sic) say, there are amendments from the committee. Senator Cornett, as Chair of the committee, are you recognized to open on the amendments? She waives. You've already opened on the amendment. Any discussions on the committee amendments? I see no lights on. Senator Cornett, you're recognized to close. Senator Cornett waives closing. Question is the adoption of the committee amendments. All those in favor raise aye. Have you all voted who care to? Please record, Mr. Clerk. [LB211]

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of committee amendments, Madam President. [LB211]

SENATOR McDONALD: The amendment is adopted. Discussion on the advancement of the bill? Mr. Clerk, we have an amendment to the bill. [LB211]

ASSISTANT CLERK: Madam President, Senator Cornett would move to amend with AM59. (Legislative Journal page 458.) [LB211]

SENATOR McDONALD: Senator Cornett, you're recognized. [LB211]

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SENATOR CORNETT: Yes, AM59 is an E clause to...an emergency clause to LB211. AM59 would add the emergency clause to LB211. The commission has asked me to introduce this amendment to help them get their raises more quickly. Under Article III, Section 19, of the constitution, their raises cannot go into effect until there is a new appointment or reappointment. The first scheduled reappointment would be in June of this year. Without an emergency clause, the judges would not receive a pay raise until the following reappointment comes up in June of 2009, which would mean the judges would have to wait 8...would have to wait 18 years since their last raise. On behalf of the judges of the commission, I ask for your support in adopting AM59. Thank you for your time and consideration on the amendment. [LB211]

SENATOR McDONALD: Thank you, Senator Cornett. Senator Fulton. [LB211]

SENATOR FULTON: Thank you, Madam President. It may be more appropriate to limit my questioning to the actual passage of the bill rather than the amendment, but I will use this opportunity to ask a question, if Senator Cornett would yield. [LB211]

SENATOR McDONALD: Senator Cornett, would you yield to Senator Fulton? [LB211]

SENATOR CORNETT: Yes. [LB211]

SENATOR FULTON: A couple days ago Senator Chambers had introduced a bill to provide a different moniker for...well, they're called judges right now, but they won't be for long. And I paid some attention to it because I was interested in the bill. And something that I noticed in the committee statement was those who were testifying for or against these bills that have to do with the CIR, and I noticed that the NSEA testified in favor of this bill. I believe on Senator Chambers' bill they testified against. And so I guess I'm not too familiar with the CIR. I guess could you answer, Senator Cornett, what is the relationship between the NSEA and the CIR? [LB211]

SENATOR CORNETT: In the state of Nebraska, certain professions are not allowed to strike, teachers being one of them. If they have a contract dispute, it goes to the Court of Industrial Relations. The NSEA testified in behalf of raising the judges' salaries because we want to be able to attract well-qualified and good people to these positions, and with a low salary rate they've been having a hard time attracting people to these positions. The NSEA's position was that we should pay our judges or commissioners well. They testified against Senator Chambers' bill because they felt that judge was...the title "judge" was more appropriate to their position. [LB211]

SENATOR FULTON: Okay. Is there...there were no other groups that testified other than the NSEA? Is that correct? Were there other groups that were testifier, that showed up and watched in a neutral capacity? I guess I'd be curious about that. [LB211]

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SENATOR CORNETT: I don't believe there were any. The only other person that spoke out against changing the name to commissioner was Senator White, and he felt that it was a credibility issue when we...when cases are litigated. I do not believe anyone else spoke out against it. [LB211]

SENATOR FULTON: Okay. [LB211]

SENATOR CORNETT: The...and, again, the bill originally was to bring the judges up to the district court level. The committee felt that that was too large of a step forward, so we amended the bill to bring their pay rate up to the county court level. [LB211]

SENATOR FULTON: That answers my question. Thank you, Senator Cornett. I'll yield the remainder of my time to the Chair. [LB211]

SENATOR McDONALD: Thank you, Senator Fulton. Senator Dubas. [LB211]

SENATOR DUBAS: Thank you, Madam Secretary. Would Senator Cornett yield to a question, please? [LB211]

SENATOR McDONALD: Senator Cornett, will you yield? [LB211]

SENATOR CORNETT: Yes. [LB211]

SENATOR DUBAS: Thank you. I know it's referenced in the fiscal note that the workload is kind of an unknown quantity here, but could we get even some kind of a close example as to what is the workload of the commission, you know, how many days out of the year do they meet, exactly what their duties are? [LB211]

SENATOR CORNETT: Yes. In 2003-2004 year, I have a breakdown of how many hours each judge worked I can give you. The total hours worked were 108.15 in 2003-2004...I'm sorry, days. In 2004-2005 it was 110.32 days. The 2005-2006 years was 122 days. And a three-year average was 113 days a year worked by these judges. [LB211]

SENATOR DUBAS: Okay. I appreciate that information. Thank you. I yield the rest of my time. [LB211]

SENATOR McDONALD: Anyone else wishing to discuss the amendment of AM59 by Senator Cornett? I see no other lights on. Senator Cornett, you're recognized to close on your amendment. [LB211]

SENATOR CORNETT: Thank you, Madam President and members of the body. The

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emergency clause is an important component to the bill because it would allow the raises to go in place this year and instead of 2009, before...with our next appointment. Again, I urge the body's support of the emergency clause, and thank you very much. [LB211]

SENATOR McDONALD: Thank you, Senator Cornett. You've heard the closing on the amendment. The question is, shall the amendment be adopted? All those in favor say (sic) aye; all those opposed vote nay. All those voted who wish to vote? Senator Cornett. [LB211]

SENATOR CORNETT: I request a call of the house. [LB211]

SENATOR McDONALD: There has been requested a call of the house. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB211]

ASSISTANT CLERK: 28 ayes, 2 nays to go under call, Madam President. [LB211]

SENATOR McDONALD: The house is under call. Senators, record your presence. Those 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 Louden, Senator Kruse, Senator Christensen, Senator Synowiecki. Senator Christensen, the house is under call. Senator Cornett, would you like to wait for Senator Christensen? [LB211]

SENATOR CORNETT: No, we can continue. [LB211]

SENATOR McDONALD: Will you accept call-ins or roll call votes? [LB211]

SENATOR CORNETT: I will accept call-in votes. [LB211]

SENATOR McDONALD: Thank you, Senator Cornett. The question is, shall AM59 pass? All those in favor vote aye; all those opposed vote nay. Indicate to the Clerk how you wish to continue to vote. [LB211]

ASSISTANT CLERK: Senator Synowiecki voting yes. Senator Ashford voting yes. Senator Wallman had voted yes, Senator. Senator Raikes voting yes. Senator Pirsch voting yes. [LB211]

SENATOR CORNETT: Record, Mr. Clerk. [LB211]

ASSISTANT CLERK: 25 ayes, 9 nays on the adoption of Senator Cornett's amendment. [LB211]

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SENATOR McDONALD: The amendment is adopted, and I raise the call. Mr. Clerk, next amendment. [LB211]

ASSISTANT CLERK: Madam President, Senator Chambers would move to amend with FA12. (Legislative Journal page 485.) [LB211]

SENATOR McDONALD: Senator Chambers. [LB211]

SENATOR CHAMBERS: Thank you, Madam President. Members of the Legislature, on page 2, in line 5, I would strike the word "judge" and insert in its place "commissioner," and the same on line 9. I had to do it in two steps because in line 5 the word "judge" is new language, so I had to make the "commissioner" new language, and in line 9 the word "judge" is a part of existing law, so all I had to do was say strike it and insert "commissioner." Since Senator Erdman made a valid point, at the time this bill was offered, these individuals were called judges, so it was determined that their salary increase would have to be done the same way that of judges' salaries will be increased. But they, in fact, are not judges so their salary can be raised just like the salary of any other public employee. However, to ensure that the term "judge" does not apply to them anywhere, I would put the word "commissioner" in place of "judge." Although I have a bill moving across the floor, there was strong enough support to adopt it, I would not want the word "judge" to appear in some places when there should be the word "commissioner" every place. Then this language could be corrected where it says, as soon as the same may legally...may be legally paid under the Constitution of Nebraska, that would become surplusage because no salary increase for an employee can take effect before it's allowed under the constitution, so that language would be surplusage. But rather than rewrite all of that, I'm simply making this bill conform to the one moving across the board, which would change the designation of these commissioners from judges to commissioner. And I think I've explained it all, but if you have any questions, I will answer them. Thank you, Madam President. [LB211]

SENATOR McDONALD: The floor recognizes Senator Erdman. [LB211]

SENATOR ERDMAN: Madam President and members of the Legislature, I had that discussion with Senator Chambers and I also saw the same surplus language that I think should also be cleaned up. I'm assuming, and Senator Cornett can correct me if I'm wrong, but I'm assuming since we are paying them that it's constitutional, and so that language could probably be removed. But I would think that in keeping with the philosophy or the policy that appears to be supported on the floor that they are commissioners and that the existing language, as it sets their salary in statute, that we should set their salary in statute and not tie it to a judge if they're not judges. Senator Chambers has made a compelling argument, and Senator Ashford can still call himself a former judge of the Court of Industrial Relations, and I think moving forward, if we

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have it in statute now that it's...that actually they're not treated as judges, that we should continue that process that's actually in statute. So we seem to have two diverging opinions here of Senator Chambers' approach that they're not judges, we've adopted that; but at the same time we don't treat them as judges under existing law, but now under this salary proposal we are. It seems that we should be consistent, and so I would support an idea that would state their salary specifically. As they are not judges, I don't believe that their salary should be tied to the judicial system. Thank you, Madam President. [LB211]

SENATOR McDONALD: Seeing no more lights on, Senator Chambers, would you like to close on your amendment? [LB211]

SENATOR CHAMBERS: Yes, I would, Madam President. And I agree with what Senator Erdman is saying, but the purpose of my amendment is just to bring about consistency and harmonization. And I think his approach would be the correct one, but I think we could do that on Select File. However, Senator Cornett will be able to address that when time comes to actually move the bill itself. All my amendment does is insert the word "commissioner" in place of "judge." Thank you, Madam President. [LB211]

SENATOR McDONALD: Thank you, Senator Chambers. You've heard the closing on the amendment. The question is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Record, Mr. Clerk. [LB211]

ASSISTANT CLERK: 33 ayes, 0 nays on the adoption of Senator Chambers' amendment. [LB211]

SENATOR McDONALD: The amendment is adopted. [LB211]

ASSISTANT CLERK: Madam President, I have nothing further on the bill. [LB211]

SENATOR McDONALD: Senator Fulton. [LB211]

SENATOR FULTON: Thank you, Madam President. I wonder if Senator Cornett is nearby, such that she could yield to a question. If not, perhaps I could find the answer by talking about this. I'm looking at the fiscal note for this bill, and I'm recognizing this fiscal note is \$56,575 in General Funds in fiscal year '07-08, and then again in fiscal year '08 and '09, and serving on the Appropriations Committee, we have...we have had to make determinations about needs versus wants, and so the tenor of my question here is to determine whether this needs exists. And so if Senator Cornett would yield to a question, I'd like to question. [LB211]

SENATOR McDONALD: Senator Cornett, would you yield to Senator Fulton? [LB211]

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SENATOR CORNETT: Yes. [LB211]

SENATOR FULTON: Senator Cornett, how difficult is it to find individuals to serve on this commission, to serve as commissioners or judges? [LB211]

SENATOR CORNETT: In committee we heard testimony that it was becoming very difficult because they hadn't had a pay raise in so long that the people that in the past...or the caliber of people in the past that had been applying were no longer applying because they were losing money compared...in doing so. What the testifier said, I have it in front of me here, is, based on the salaries paid to other judges in the state of Nebraska, the Commission of Industrial Relation judges, or commissioners, whichever language you prefer, are significantly underpaid. In recent years it has been difficult to find qualified attorneys willing to serve as judges for the commission due to this low reimbursement rate. And this was what we...this is the testimony that we received in committee. [LB211]

SENATOR FULTON: Okay. Are there presently vacancies on this commission? [LB211]

SENATOR CORNETT: There is, in 2000...coming up in the spring they're looking at filling a position. That was what the E clause was for. [LB211]

SENATOR FULTON: Okay. So the intention behind the E clause was to show that there will be a higher level of pay than what currently exists with the prospect of attracting other people to the commission. [LB211]

SENATOR CORNETT: Well, without the emergency clause, the judges would not receive a pay raise until the following reappointment comes up in 2009, and so they would have to wait another two years for a raise. [LB211]

SENATOR FULTON: Okay. Thank you. I...my...I have concerns with the bill because of the General Fund expenditure. And it had...perhaps I'm wrong, but my experience has been that that's a...that there have been lawyers that are willing to serve on this commission. And am I correct, Senator? I have another question, I guess. Am I correct, these are lawyers, correct, attorneys? [LB211]

SENATOR CORNETT: Yes. [LB211]

SENATOR FULTON: Okay. My impression was that there is...there have been a number of attorneys who are willing to step up and serve in this capacity, and so I'm questioning whether indeed the need exists versus the want here. And I'm not...if I knew the answer to that question, I would state so emphatically. I don't know the answer to that question, but I have some suspicion, and that's why I asked the question. So I don't

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know how I'm going to vote for certain on the bill. I appreciate the input from the senator. I'll yield the remainder of my time. [LB211]

SENATOR McDONALD: Thank you, Senator Fulton. The floor recognizes Senator Johnson. [LB211]

SENATOR JOHNSON: Madam Speaker, members of the Legislature, I rise in support of this. Senator Fulton, I think it's not a question of whether it's a need or a want. I think it's a question of fairness. Is it reasonable that we ask good people to donate their time to the state of Nebraska? And that's what we're asking these people to do. The...I've been told that the compensation really is about 40 percent of what it would be if they stayed home and did their job in their office. So do we really want to make the state of Nebraska a charity case? I think that's what it comes down to. This goes back to 1991, is the last time that they had a raise. If you'll remember, the last session of the Legislature, there was a similar situation with the members of this very body, and at that time it was thought that maybe a cost-of-living adjustment was necessary, and I think we have a cost-of-living adjustment that's necessary here too. Let's be fair to these people so that we maintain the high quality of individuals that we have that have volunteered to serve in this capacity. Thank you. [LB211]

SENATOR McDONALD: Thank you, Senator Johnson. Senator Wightman. [LB211]

SENATOR WIGHTMAN: Thank you, Madam Chairman. Would Senator Cornett yield to a question? [LB211]

SENATOR McDONALD: Senator Cornett, would you yield to a question from Senator Wightman? [LB211]

SENATOR CORNETT: Yes. [LB211]

SENATOR WIGHTMAN: When you gave the total number of hours or days, I guess, that the judges/commissioners had been...worked during the past year, was that the total number for all of the commission or was that per judge, per commissioner? [LB211]

SENATOR CORNETT: That was the total. I have that broken down. In a...the average hours for each judge in a three-year period from July 1 of 2003 to June 30 of 2006: Judge Orr had 210 hours as an average; Judge Blake had 155 hours as an average; Judge Burger had 302 hours per year as an average; Lindahl had 55 hours a year; and Cullan had 60 hours per year; and a seat was vacant for seven months of the time. [LB211]

SENATOR WIGHTMAN: Thank you for that information. With that information, I would say that I support this bill strongly. While perhaps some people may think that since

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we're calling them commissioners as opposed to judges they maybe shouldn't be entitled to the same amount of compensation, I think you should keep in mind that these judges or commissioners, as we now propose to call them, are taking time out from their law practices. You know, it's not like they were employed full-time, but sometimes they're leaving something, that might be far more lucrative or compensatory at their own law office, to serve, and I think it's no more than fair that they do have this increase after some 15 years. So I would intend to support the bill. I would yield the rest of my time to the Chair. [LB211]

SENATOR McDONALD: Thank you, Senator Wightman. Senator Wallman. [LB211]

SENATOR WALLMAN: Thank you, Madam Chair, members of the body. I, too, would vote to increase...to adopt this amendment because I have an attorney in the family and he says, how can you get an attorney for that money, what we're paying. Whether it be a commissioner or a judge, these people make decisions that affect your school boards, some of your county employees, and do we want to be Scrooge on these people? No. I say...I, again, vote that you would...hope that you would advance this bill. Thank you. Yield the rest of my time. [LB211]

SENATOR McDONALD: Thank you, Senator Wallman. Senator Lathrop. [LB211]

SENATOR LATHROP: Thank you, Madam Chair, members of the body. I rise today in support of the measure to increase the compensation for the judges of the...or the commissioners of the Court of Industrial Relations, or the Commission on Industrial Relations I guess is the proper title. I think it's important for people to know that we heard the testimony from those people who appear in front of the commission, we heard the testimony of the commissioners themselves, and what we are asking people to do that serve on this commission is to set aside their practice, not permanently like a judge would where they leave, close up the shop and then go into practice...or go on to the bench, but to take time out as the needs of the state require, and the compensation necessary to secure talent on this commission is at least commensurate with what you'd need to get talent on the county court, which is the measure we use for deciding what their daily rate of pay should be. Understand that they're not paid the same money as a county court judge because they do this only part-time. They're just paid the same daily rate a county court judge would pay (sic), and it's important to pay at this rate if we want good people to do it. If you don't compensate judges, if you don't compensate commissioners adequately, what you will end up with is bad lawyers, burned out lawyers, and people that we don't want making decisions being the only people interested in working for the kind of pay that we will allow for. So I think today we have an opportunity to bring the commission and those who serve on it up to a fair level of compensation, and for that reason I'd support LB211. [LB211]

SENATOR McDONALD: Thank you, Senator Lathrop. Senator Carlson. [LB211]

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SENATOR CARLSON: Madam President, members of the body, as I stand here, I'm not real certain how I'm going to vote on this bill. In listening to comments, in a way, I take a little bit of exception. We talk about, unless people are fairly compensated they aren't willing to serve. I've been a member of this body now for a little bit over a month and I'm proud to serve, and I have realized in a little bit over a month there's a lot of qualified people in this body, and we've made a decision that we are here to serve. And so I don't think we always need to look at we can't get somebody that's willing to serve in a position unless we paid them accordingly. The voters decided not to pay us any more money than what they were paying us last year, and yet, we have been willing to serve anyway. So this is...it's a serious matter, and think carefully before we make a vote, and I simply wanted to indicate my pride in the members of this body in being able to serve with you. Thank you. [LB211]

SENATOR McDONALD: Thank you, Senator Carlson. I see no more lights on. Senator Cornett, you are recognized to close on LB211. [LB211]

SENATOR CORNETT: Thank you, Madam President and members of the body. In, I'll reiterate, in committee hearings we heard testimony from the commissioners themselves that they were having trouble filling positions, that they had not had a pay increase since 1991. I believe there was a question from Senator Erdman in regards to the salaries being tied to the constitution. It is our understanding that, whether they're judges or commissioners, their salaries are tied. I urge the body to support the passage of LB211 with the committee amendments. Thank you. [LB211]

SENATOR McDONALD: Thank you, Senator Cornett. You've heard the closing on the advancement of LB211 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all vote...those voted who wish to? Record, Mr. Clerk. [LB211]

ASSISTANT CLERK: 30 ayes, 2 nays on the motion to advance the bill, Madam President. [LB211]

SENATOR McDONALD: Bill advances. Dick, do you have any messages or reports? [LB211]

ASSISTANT CLERK: Madam President, I do. Education Committee will hold an Executive Session in Room 2102 today following adjournment; that's 2102 for the Education Committee. New A bill. (Read LB12A by title for the first time, Legislative Journal page 485.) [LB12A]

I do have a priority motion. Senator Flood would move to adjourn until Wednesday, February 7, 2007, 9:00 a.m. []

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SENATOR McDONALD: (Visitors introduced.) We have a motion to adjourn. All those in favor say aye. All those opposed vote nay. The ayes have it. We are adjourned. []