

February 13, 1992 LB 111

SENATOR LINDSAY: Thank you, Mr. Speaker, and members, Mr. Clerk, on page 685?

CLERK: 635, Senator, I'm sorry, I didn't read correctly.

SENATOR LINDSAY: Thank you. Thank you, Mr. Speaker, and members, this amendment is AM2710, would allow that offenses cannot be aggregated into more than one offense. What this is intended to prevent is in the case of an embezzlement, and let's say somebody is embezzling \$50 a pop and embezzles 50 times, now if we're to allow aggregation, that would be instead of having to file separate misdemeanors this would be allowed to be filed as a felony. What the amendment would require is rather than allowing the prosecutor to subdivide that into ten felonies, play with the amounts to add them up to a felony level as many times as possible, it would require that...that the prosecutor could either file it as a felony, file the entire scheme as a felony, or to file them separately as misdemeanors. It allows the prosecutor to do that. The reason for this amendment, I think this amendment actually goes more in line with the rationale underlying LB 111. The rationale underlying LB 111 is that these are schemes, that it's actually one continuing course of criminal conduct rather than being four or five or six separate instances that were...that were unrelated. And if, in fact, we use that rationale, then we should not allow the prosecution, when charging these crimes, to subdivide that into different schemes of conduct, the idea being we either accept the fact that it is a course of conduct or it is not, but we can't mix and match to come up with the most...with the biggest level that we can find. It is permissive for the prosecutor to do this. This does not require that the prosecutor have to do it but if the prosecutor chooses to do it, the prosecutor cannot play with the figures to come up with as many crimes as possible. With that, I would urge the adoption of the amendment.

SPEAKER BAACK: Discussion of the amendment by Senator Lindsay. Senator Hall. Senator Hall waives off. Senator Bernard-Stevens.

SENATOR BERNARD-STEVENS: Senator Lindsay, just a question, if I might. The way I listened to your explanation when reading it, basically, in layman's terms what we're allowing the prosecutor to do is one or the other. If they aggregate it and they say