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Floor Debate
March 11, 2009

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SENATOR ROBERT PRESIDING []

SENATOR ROBERT: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-second day of the One Hundred First Legislature, First Session. Our chaplain today is Pastor Janet Goodman Banks from the Reach Out Christian Center, Lincoln, Nebraska, Senator Haar's district. Please rise. []

PASTOR GOODMAN BANKS: (Prayer offered.) []

SENATOR ROBERT: Thank you. I call to order the forty-second day of the One Hundred First Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record. []

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

SENATOR ROBERT: Are there any corrections for the Journal? []

CLERK: I have no corrections. []

SENATOR ROBERT: Any messages, reports or announcements? []

CLERK: Your Committee on Enrollment and Review reports LB356 and LB356A to Select File. General Affairs Committee chaired by Senator Karpisek reports LB498 to General File. Priority bill designations: Senator McGill, LB551; the Agriculture Committee, LB224, LB241; Senator Harms, LB458; Senator Nantkes, LB206; Senator Mello, LB555. That's all that I have, Mr. President. [LB206 LB224 LB241 LB356 LB356A LB458 LB498 LB551 LB555]

SENATOR ROBERT: Thank you, Mr. Clerk. Let's proceed to the first item on the agenda: General File. []

CLERK: Mr. President, LB63, a bill originally introduced by Senator Friend. (Read title.) The bill was introduced on January 8, referred to Judiciary, advanced to General File. Senator Friend and the Judiciary Committee chaired by Senator Ashford opened on both the bill and the committee amendments yesterday, Mr. President. [LB63]

SENATOR ROBERT: Thank you, Mr. Clerk. Members, before we proceed, yesterday we received some cookies on behalf of Senator Haar's thirty-seventh birthday. Let's

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recognize him in appreciation. (Applause) Senator Friend, you are recognized to briefly open on LB63. [LB63]

SENATOR FRIEND: Thank you, Mr. President. Is briefly an order? That's rhetorical. Members of the Legislature, LB63 and then AM212, the Judiciary Committee amendments, briefly, we're addressing various areas of the criminal code. We're ratcheting up violent crime violations in circumstances all across the board. And doing it to try to...if you recall part of the discussion yesterday, doing it to try to come as close as we can to mirroring federal law in order to make sure that violent criminals that are prosecuted in our state and by our county attorneys are done so in a manner that is, I think, equitable. Also, it as a...I almost hate the terminology, in order to put for our prosecutors and our law enforcement agencies throughout the state, to give them the tools and the ability to do the things that you can potentially do at the federal level. Now, also the Judiciary Committee placed language in this bill that's very proactive in nature and it's in the back of the committee amendment. Hopefully, to create two offices with the ability to go seek funding that will help, you know, catch wayward youth, to help from a rehabilitation standpoint. Let's face it, that's what it's all about. I know I have plenty of time, but I would offer...and I know we're going to probably talk about this for the majority of the morning, but I would offer the rest of the time to Senator Ashford to discuss AM212 at greater detail. Thank you, Mr. President. [LB63]

SENATOR ROBERT: Senator Ashford, you're recognized to reopen on AM212. [LB63]

SENATOR ASHFORD: Thank you, and I'll try to be brief. I believe there's some amendments that Senator Pirsch has introduced and I've had an opportunity to talk to him about that. We'll hear about those amendments, but they seem consistent with the idea behind LB63. Again, I would ask the body to take a look at the packet of information that we have handed out on these issues. The packet...if you don't have a packet, we have packets over on the side of the room...Chamber, and we'd be happy to get them to you. I mentioned a little bit yesterday about the...and the information is in the packet at the back of the packet. And it's some material by the Empowerment Network. This is a network of community leaders in north Omaha, and the theme of the network is stop the violence. And I commend the reading to you because it's just a few slides, but it really focuses on the need for a comprehensive package on how to deal with violence. It talks about how community leaders getting on the street dealing directly with potential offenders can stop the shooting, can stop crime. The kind of prevention/intervention that we're talking about in the Empowerment Network and other cities' efforts are not necessarily social service programs, they are really programs that are designed to be, in effect, pretty darn tough to confront these potential offenders on the street, working with law enforcement and community leaders to pull them literally off the street and into other programs. The Empowerment Network in north Omaha has only been in existence a couple of years, but has made significant strides. There is also material from the CeaseFire program in Chicago where there have been significant

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reductions in violence related directly to the programs that the city of Chicago, the police, the University of Illinois-Chicago have implemented. And then there's some material about from High Point, North Carolina, another successful program, Cincinnati, Ohio. What is important about all of these programs, they are prevention. They're intervention programs and they are done in conjunction with, not contrary to the efforts of local police, state officials, and in many cases federal officials working together to stop the violence. One of the most interesting aspects of the prevention is the efforts to meet with families who have been victims of violent crime, in many cases, to stop retaliatory shootings. Retaliatory shootings are a major part of the violence issues, at least that we face in Omaha. And some of these efforts are really exciting to read about. I appreciate, again, Senator Friend bringing his package of bills. I think that though they are tough, in many cases they are focused on the types of crime, the gun-related crime, the gang-related crime. And I believe Senator Pirsch's amendments also deal with firearm-related crime that we really need to get a handle on. And though there are cases where a juvenile has been involved in a violent crime when, for one reason or another, probation may be the appropriate sentence. [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR ASHFORD: In my view though, we need to be much more consistent and tough in dealing with firearm-related crime. And I believe Senator Friend's LB63 with the amendments...and by the way, the amendments are in the packet at the front, amendment by amendment, so that you can go through those amendments as we proceed through the bill, are very appropriate responses to crime, the kind of crime that we have in many case nontraditional crime, gang-related crime, gun-related offenses. With that, Mr. President, I would just commend this matter to the body. [LB63]

SENATOR ROBERT: Thank you, Senator Ashford. Mr. Clerk, we have amendments to the committee amendment. [LB63]

CLERK: Mr. President, Senator Pirsch would move to amend the committee amendments, AM637. (Legislative Journal page 684.) [LB63]

SENATOR ROBERT: Senator Pirsch, you are recognized to open on AM637. [LB63]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I, too, had as a criminal prosecutor in the city of Omaha for the last ten years have recognized the increase in the level of gun violence over the course of the years. And so I think it is a necessary thing that we go forward and make sure appropriate sentences or penalties are in place to address this ever-worsening type of crime. I have been working over the course of the summer as well on this problem with Councilman Dan Welch of the city and the city of Omaha in looking at solutions. One of the paradigms that they've looked to in other states and other cities was a project called Operation Exile which was in

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place in other states, I think proven effective in Virginia and other cities. And so I think that this approach with respect to a toughening of penalties is appropriate. You know, I can tell you that there is a problem, having prosecuted hundreds of gun crimes in the city of Omaha over the last decade. There is a need for this. There are three, I would say, notable exceptions to the list of gun crimes that are within LB63 and that are not, I guess, noticeably absent from that bill. So my amendment here I don't think is sweeping in nature, but it does add those three exceptions, address those three exceptions which are quite serious gun crimes, and I'll name those here: possession of a defaced firearm; defacing a firearm, and possessing a stolen firearm. And changes in all three cases the possible penalty that a judge can sentence a violator to from a Class IV felony to a Class III felony. And so it is a...in so doing, it does not create a mandatory minimum, but rather it gives the judge the opportunity to, should he deem it or she deem it reasonable to add additional, I guess, additional prison sentence from that which currently exists. So it does increase the length, the maximum of which a judge can sentence a violator. In so doing, I think, it makes LB63 more complete, more comprehensive; there are no loopholes then. And just for those of you who have a question, what is defacing a firearm. That is there is a number of identifying marks on a firearm, and by law those who are interested in committing crime with firearm generally are not interested in being tracked back to that firearm. And so they file down or eliminate, deface that firearm, and it makes it very difficult then or more difficult for law enforcement to determine where that gun came from, who supplied it, and in that way is a very serious crime. So that's the sum and substance of my amendment, not sweeping in nature. I would urge you to pass my amendment on to AM212. Thank you. [LB63]

SENATOR ROBERT: Thank you, Senator Pirsch. Members, you have heard the opening to AM637 to the committee amendments. Those wishing to speak, Senators Ashford, Friend, Harms, Wightman, and Loudon. Senator Ashford, you are recognized. [LB63]

SENATOR ASHFORD: Very briefly as I mentioned in my opening, I think Senator Pirsch's amendments are appropriate because they deal with a problem that law enforcement has in attempting to trace these weapons that are used in violent crime and with the eventual outcome hopefully of getting these weapons off the street, finding the person that may have illegally sold or transferred a weapon to someone who has utilized that weapon in some kind of violent activity. I agree it's a good amendment. I appreciate Senator Pirsch bringing it to us. And with that, I would just urge we adopt it. Thank you. [LB63]

SENATOR ROBERT: Thank you, Senator Ashford. Senator Friend, you're next and recognized. [LB63]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I just wanted to point out a couple of things. I know that there is a lot of discussion right now

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about ideas for amendments and also side discussion going on about, you know, about cost, some of the things that are going to be associated with this bill. We can hash through all of that, and I know Senator Ashford, if I can't answer the questions, I think Senator Ashford could. I think members of the Judiciary Committee could possibly even answer some of them or the Attorney General's Office. And I know that there are folks in the back that would be happy to field some of those questions for us. I want to point out a couple of things, some changes that were made. First of all, to this amendment between...this discussion has been going on for a long time, and most of it has been Senator Ashford and his staff and the Judiciary Committee staff working with the Attorney General's Office to get this stuff in shape to be able to get it out here. Now, that doesn't mean that I'm saying that we won't entertain amendments. However, what it does mean are there's some things that I should point out on the summary sheet that I handed out on AM212 that have even changed between the time the hearing occurred and the time this actually came out of committee. One is there was a slight change, it creates the offense of a discharge of a firearm from a vehicle within populated communities and makes it a Class IC felony. That was one thing because there was some discussion during the hearing that I remember that people were a little worried about what that was going to mean. Another one is enhancements to the abolishment of the jailhouse informer statutes, but also the modification of the discovery statutes allowing for discovery of information about jailhouse witnesses and any deals or inducements given to secure their testimony. Another one was clarification or definition of a jailhouse witness. Also eliminated provisions that information about jailhouse witnesses must be supplied to the defense within ten days of trial and prevents the outright exclusion of a jailhouse witness testimony if all provisions are not strictly complied with. The point here is that there are some parameters wrapped around this, and it's my understanding there were concerns raised within the Judiciary Committee, which I was not involved in because I'm not on the Judiciary Committee, concerns about those pieces of the bill or that language in particular. I'm going to get out ahead of this one and then I'm going to sit down because this amendment, I haven't even got a chance to digest this yet. I can speak to that later, but I'm going to get out ahead of this one. The Office of Violence Prevention and the advisory council which would develop and foster and promote and assess violence prevention programs. Yeah, you know, there's funding and there is a fiscal impact to this. However, Brad...excuse me, Senator Ashford and others can speak a little more clearly and hopefully...I'm not trying to abdicate any authority here. I mean, I know what this office does, but I also think he's been involved in the discussions to create this thing and make it as effective as we can possibly make it. So with the fiscal reality that we're dealing with in this 90-day session... [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR FRIEND: ...this stuff is going to be addressed. I think it's totally appropriate that it's addressed. So all that said, I can quit there and I'd be happy to, you know,

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pursue any of these type of questions and some of this information later on. Thank you, Mr. President. [LB63]

SENATOR ROBERT: Thank you, Senator Friend. (Visitors introduced.) Returning to discussion, those wishing to speak: Senators Harms, Wightman, Loudon, Haar, Carlson, and Pankonin. Senator Harms, you are next and recognized. [LB63]

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator Friend, would you yield to a couple of questions please? [LB63]

SENATOR ROBERT: Senator Friend, will you yield to a question? [LB63]

SENATOR FRIEND: Yes, I will. [LB63]

SENATOR HARMS: Senator Friend, I'm using this white copy and it's not numbered, so we might have somewhat of a problem matching up, but under the section that deals with the area of jailhouse witnesses and being able to use that in the discovery mode through the court system... [LB63]

SENATOR FRIEND: Okay. I think I'm on the right page, Senator Harms. [LB63]

SENATOR HARMS: Okay. Do we not do that today? And the second part of the question is, is this reliable and can we trust the kind of information you're going to actually get here? And why do we want to do this? [LB63]

SENATOR FRIEND: Well, I'm going to be straight out with this. Do we do this today? In my understanding, yes and no. And I know that I've talked a little bit with Senator Lautenbaugh and briefly with Senator Ashford about this and I think that they can provide more information, Senator Harms. The second piece...anyway, I don't know if you wanted to switch gears on this or not. [LB63]

SENATOR HARMS: Okay. Yeah. That would be fine, thank you. Senator Ashford, would you yield? [LB63]

SENATOR ROBERT: Senator Ashford, will you yield to a question? [LB63]

SENATOR ASHFORD: Yes. This, the jailhouse informant issue is a change from existing law, Senator Harms. It does, to some extent, loosen the requirements for the prosecutor to utilize evidence from jailhouse informants. But at the same time it does require that the defense does have an opportunity to discover the information from a jailhouse informant in a way that is more consistent with how evidence is adduced normally in a criminal prosecution. So basically we are changing statute somewhat to give the prosecutor a little more leeway in utilizing that evidence, but the protections of

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the existing law, I believe, are still there. Senator Lathrop I know is...he's not here, but he did work on that amendment with the Attorney General, and I believe it's consistent with their views. [LB63]

SENATOR HARMS: Thank you, Senator Ashford. I have another question while you're still at the mike, if that's okay. [LB63]

SENATOR ASHFORD: Yes, sir. [LB63]

SENATOR HARMS: This comes under the Attorney General's provisions. [LB63]

SENATOR ASHFORD: Yes. [LB63]

SENATOR HARMS: And it deals directly with defender gang affiliation and their ability of the courts to decide whether this goes into an adult or whether it goes into juvenile. How do they determine that and why does it make any difference about the gang? I guess I don't understand that for sure because I'm not familiar with gangs. Could you help me a little bit better understand that? [LB63]

SENATOR ASHFORD: All these cases are filed in an adult court initially. And if, however, the...the felony cases, however, if the prosecutor could agree to have these matters waived to the juvenile court based on the...or quite frankly, the district court could waive the case down to the juvenile court based on the background of the defendant and other factors, the nature of the activity and so forth and so on. I think the idea is here though is to put as much as possible to be able to tell the young gang members that there is a good chance that they will be prosecuted in district court. That's the reason for the language change. [LB63]

SENATOR HARMS: Okay. And another question while you're still at the mike, Senator Ashford. Senator Ashford, would you be willing to yield some more? [LB63]

SENATOR ASHFORD: Yeah, I'm sorry, Senator Harms, I was... [LB63]

SENATOR HARMS: I have a series of questions. Don't walk away from me here. [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR HARMS: Okay, I'd like to talk with you. This comes under your provisions and it deals specifically with the probationary officer given the responsibility to determine whether or not they hold this juvenile or not hold the juvenile. [LB63]

SENATOR ASHFORD: Yes, yes, yes. [LB63]

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SENATOR HARMS: Could you help me better understand that and why? [LB63]

SENATOR ASHFORD: Yes. That's a great question. [LB63]

SENATOR HARMS: Is that being done today or is that new? I'm assuming... [LB63]

SENATOR ASHFORD: That's new, and that's an excellent question. It is part of the LB35, which was amended into LB63 and is part of my provisions. And what that is designed to do, Senator Harms, it's a great question. It's designed to address the issue of juveniles who have not committed violent offenses who sit in a juvenile detention facility for an inordinate amount of time without seeing a probation officer or getting a hearing before a juvenile court. We have this. I don't know if this exists in your district. [LB63 LB35]

SENATOR ROBERT: Time. [LB63]

SENATOR HARMS: Okay. I still have a...how much time do I have? [LB63]

SENATOR ROBERT: That was time, Senator. [LB63]

SENATOR HARMS: How much? [LB63]

SENATOR ROBERT: Time's up. [LB63]

SENATOR HARMS: Oh, thank you. Thank you, Mr. President. [LB63]

SENATOR ROBERT: Thank you, Senator Harms, Senator Ashford. (Visitors introduced.) Returning to discussion, Senator Wightman, you are next and recognized. [LB63]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. I was gone during some of the discussion yesterday, so would like to engage in a little conversation with Senator Friend, and then perhaps Senator Ashford. [LB63]

SENATOR ROBERT: Senator Friend, will you yield to a question from Senator Wightman? [LB63]

SENATOR FRIEND: Absolutely. [LB63]

SENATOR WIGHTMAN: Senator Friend, did I hear you say that this was patterned after federal law, that the graffiti part of it or... [LB63]

SENATOR FRIEND: I think you heard me say, and I'm paraphrasing, is that we're trying

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to...while we're not trying to mirror federal law, we're trying to come a little closer. It's been 20 years since a lot of this criminal code has been enhanced. And these penalties are an attempt to try to mirror or come close to mirroring federal law, yes. Is that what you asked? [LB63]

SENATOR WIGHTMAN: Are the definition sections also similar to federal law on both the graffiti and the gang-related activity? [LB63]

SENATOR FRIEND: And I didn't hear all of that, but I think... [LB63]

SENATOR ROBERT: (Gavel) [LB63]

SENATOR FRIEND: ...you're asking about the graffiti and gang-related activity associated with the graffiti? [LB63]

SENATOR WIGHTMAN: Right. The language in those sections. [LB63]

SENATOR FRIEND: Now, those...let me answer it this way, this amendment is an amalgamation of about four or five different bills, in a way. Those graffiti bills, while we had graffiti provisions in the original LB63, those came from...a lot of that language and those ideas came from different bills, Senator Nordquist, Senator Mello's bills. Now, that being said, I don't think that these were done necessarily to mirror any federal law, that language. [LB63]

SENATOR WIGHTMAN: Okay. That answers my question. I did have a question of Senator Ashford, if he would yield to a question. [LB63]

SENATOR ROBERT: Senator Ashford, will you yield to a question? [LB63]

SENATOR ASHFORD: Yes. [LB63]

SENATOR WIGHTMAN: And I've discussed this with you prior to being on the mike, but Senator Ashford, the pink copy of the fiscal note indicates that there really was no fiscal note as far as any exact dollars, but I think you furnished the body with some. And I'm particularly concerned over Section 31, which is at page 39 of AM212. And obviously there will be some fiscal impact I assume because we're establishing an office. There is established within the Nebraska Commission on Law Enforcement and Criminal Justice the Office of Violence Prevention. The Office shall consist of a director appointed by the Governor and, of course, doesn't say how many other people might be in the Office, but I think you have addressed that by a memo. Could you share with the body what we're talking about there? [LB63]

SENATOR ASHFORD: Yes. And...yes, thank you, Senator Wightman. And I did supply

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to the Appropriations Committee some while ago a sheet which has an estimated budget of \$445,000 in the first year and \$445,000 in the second year in the biennium to deal with the setting up of the Office of Violence Prevention and the creation of a grant program, funding a grant program that would enable us, hopefully if this bill passes with the E clause, enable us to have a plan for violence intervention and prevention in place this summer. And that would entail additional people other than the director, at least for this first two years of the biennium, and it would entail people working on the street with the Empowerment Network that I described. For example, if it were in north Omaha or in Omaha... [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR ASHFORD: ...but there may be other communities. But there is a fiscal impact to the... [LB63]

SENATOR WIGHTMAN: The note that you passed out shows about \$455,000. That would be an ongoing expense that would be an annual expense. [LB63]

SENATOR ASHFORD: Yes, and I don't see that going down, Senator Wightman. I see the state commitment being real here. In order to coordinate this...I think what's been lacking is this coordination piece and getting a plan in place, and I...other states have engaged in this kind of coordination effort. I don't see this being as effective at all without that. So I do see a state obligation ongoing here. [LB63]

SENATOR WIGHTMAN: Thank you, Senator Ashford. Thank you, Mr. President. [LB63]

SENATOR ROBERT: Thank you, Senator Wightman. Those wishing to speak: Senators Loudon, Haar, Carlson, Pankonin, and others. Senator Loudon, you are recognized. [LB63]

SENATOR LOUDON: Thank you, Mr. President and members of the community in here. Anyway, what I'm wondering about is this AM212, and as we go forwards with this thing I mentioned yesterday about the offense of someone losing their driver's license because of a graffiti-type conviction. We tried to do that once before on someone that, minor in possession with liquor. In other words, if they were walking down the street with a can of beer in their pocket, why they could lose their driver's license. And I think we should have probably the punishment should fit the crime. If it's going to be something with driving, then yes, they lose the driver's license. I have no problem with that. But I think to use that as a driver's license revoke just to punish someone for some other crime I think is totally unreasonable. This is something where we have to be very careful that we're not prosecuting our teenagers for most anything that they might do. We've already set it up so they can't talk on a cell phone when they're driving. So I have a problem with going along on this amendment. I think that part could be deleted out of

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there. I don't see where that would hurt this amendment that much. I think it would probably what you're trying to do is get into gang members and stuff and I would question how many of these people probably have a driver's license to lose anyway. So I think that was something that was somewhat frivolous in there and I would like to see that section...paragraph (5) in Section 5 deleted out of the amendment. Whether something works as we work along with this and get it out of there, I don't know. Otherwise, I'm sure we need to introduce a floor amendment or something to address that matter if it isn't taken care of. Some of the other parts, I wonder when you look this bill over or this amendment to the bill which took the place of the bill LB63, there's a lot of stuff in here that has quite an effect on probably how we handle some of these crimes or minor crimes in the state of Nebraska. And part of it I realize is something that Omaha has to deal with, but then again you got to remember that there are other parts of the state where we don't have these problems and there could be some, I guess you'd call it peripheral damage done to other people in the state of Nebraska. So I think as we go forwards with this amendment, we have to be very careful on how and what we put into statute because you want to remember, whatever goes into statutes affect everyone in the state of Nebraska. So with that, I would ask that those that are working on this that...and I'll question them off of the mikes here pretty soon to see where we're coming, but I would like to see paragraph (5), Section 5, out of this amendment deleted out of there. Thank you, Mr. President. [LB63]

SENATOR ROBERT: Thank you, Senator Loudon. Senator Haar, you are next and recognized. [LB63]

SENATOR HAAR: Mr. President and members of the body, thank you. I have a question for Senator Friend. [LB63]

SENATOR ROBERT: Senator Friend, will you yield to a question? [LB63]

SENATOR FRIEND: Yes, I will. [LB63]

SENATOR HAAR: Thank you. I certainly rise in support of the overall bill. I have a question about one of the terms that I ran across as I was reading this, and this is on page 24, line 22, of the original bill where it defines what a gang means. And it reads that it "means a group of three or more people with a common identifying name, sign or symbol whose group identity or purposes include engaging in illegal activities." And I know words are so important in all of our bills. Let's say that I had a group from college. We always get together. We have kind of a logo that we've had since college and we engage in poker and we bet money, which is illegal. Does that make us a gang? [LB63]

SENATOR FRIEND: Well, first of all, I can't find...I mean, you said that this was...I want to be responsive to your question, I would say the answer is no. But one of the problems I'm having right now is that you said that this was in the original green copy of

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the bill. AM212 replaces the entire green copy, Senator Haar. [LB63]

SENATOR HAAR: Okay, okay. [LB63]

SENATOR FRIEND: So I need to find that language in AM212. [LB63]

SENATOR HAAR: Okay. Tell you what... [LB63]

SENATOR FRIEND: Because we may have enhanced that...that language may have been enhanced by the Judiciary Committee, and I don't know the answer. [LB63]

SENATOR HAAR: Okay. Well, I will come and talk to you, see if we can find that, and I'd like to relinquish the rest of my time to Senator Pirsch. [LB63]

SENATOR ROBERT: Senator Pirsch, 3:05. [LB63]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I just wanted to correct an earlier statement I made. I believe I was thinking that we had changed...and I'm talking about my amendment and that is the one that's currently being considered, amendment to the Judiciary Committee's amendment. The introduction, again, of those three new crimes: possession of a defaced firearm; defacing...they're not new crimes rather, but the toughening of the penalties for those three crimes to add them to the Judiciary Committee's amendment, and to make them equivalent or a parity with respect to all gun laws. And with respect to the possession of a defaced firearm, defacing a firearm, and the possession of a stolen firearm which would be then added to the subject matter of this bill if my amendment is adopted or to the amendment of the Judiciary Committee's amendment. I indicated that was a Class IV felony currently, and the original paradigm we were looking at is making that a Class IIIA, in which case there would be no mandatory minimum. However, we chose the paradigm instead, Class III felony, which would mean there is a one-year mandatory minimum sentence in addition to the other penalties that are attendant with that, and so in addition to the maximum possible penalties. So this would bring it in line with the other changes that come within the Judiciary Committee's amendments to AM212. But I did misspeak earlier and I wanted to make sure that I corrected that, that we are doing essentially with these three...adding these three gun violations, utilizing essentially the same paradigm that the Judiciary Committee approaches the other gun violations with in terms of penalties. So having corrected that, I would just address briefly... [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR PIRSCH: Senator Haar, I think, had a question with respect to the origin of the language. And I haven't had a chance to look at the, as Senator Friend said, the specific amendment. But the language seems, that you read, seems similar to language

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that I had encapsulated in a different statute. It comes from current language that's used in other states. I believe it was Delaware that currently has that statute or is my recollection, so, and a couple of other states. So I thank you for your time. [LB63]

SENATOR ROBERT: Thank you, Senator Pirsch and Senator Haar. (Visitors introduced.) Returning to discussion, those wishing to speak: Senators Carlson, Pankonin, Pirsch, Council, Harms, Ashford, and Friend. Senator Carlson, you are recognized. [LB63]

SENATOR CARLSON: Mr. President and members of the Legislature, I am in support of LB63 and AM212, and I'm listening concerning AM637. I'm not opposed at all to stiffer penalties as a deterrent to crime. However, I'm also concerned about education, prevention, and rehabilitation. And I would like to address Senator Friend with a couple of questions if he would yield. [LB63]

SENATOR ROBERT: Senator Friend, will you yield to a question? [LB63]

SENATOR FRIEND: Yes, I will. [LB63]

SENATOR CARLSON: Senator Friend, what I'm going to ask you and I'm sorry if you've already covered it, but as a layperson that's not well educated in the area of law enforcement, if we don't know, we've got to ask. Now, I mentioned that I've got a concern about education, prevention, rehabilitation. Does AM212 address this in any depth? Are we basically talking about penalties? [LB63]

SENATOR FRIEND: Well, let me answer it this way, yes, I think it does thanks to the work that Senator Ashford has done. And again, I'm not brown-nosing Senator Ashford. I don't have to do that. As a matter of fact, next week we'll probably be fighting. I don't really know. However, the time that he's put in and the language and the effort that he and the Judiciary Committee have injected into this bill I think answers that. However, I don't think it answers it to the specific...down to the detail that you're talking about. I mean, this is a pretty...the language at the end of this amendment if you look at it, I wouldn't say it's esoteric, but it's pretty high level. And it's not...it's a little Spartan. We're talking about trying to create a couple of offices that have the ability to educate, that have the ability to be proactive. So I hope that answers to a degree. [LB63]

SENATOR CARLSON: All right. Thank you, Senator Friend. I would address a question to Senator Ashford if he would yield. [LB63]

SENATOR ROBERT: Senator Ashford, will you yield to a question? [LB63]

SENATOR ASHFORD: Yes. [LB63]

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SENATOR CARLSON: Senator Ashford, in light of what Senator Friend just said, I want to go to a different question. On page 13 of AM212 it's got the section in there that addresses what a prohibited person is. [LB63]

SENATOR ASHFORD: Yes. [LB63]

SENATOR CARLSON: Is that a complete definition of prohibited person and would you put it in layman's language? Page 13 of AM212. [LB63]

SENATOR ASHFORD: Page 13. [LB63]

SENATOR CARLSON: Line 7, starts at line 7. [LB63]

SENATOR ASHFORD: Any person...well, basically a prohibitive person under this portion of LB63 is someone who has been convicted within the past seven years of a misdemeanor crime of domestic violence or is the subject of a current protection order. That would be the prohibitive person under that section. [LB63]

SENATOR CARLSON: Okay. So that pretty well defines prohibited person for this bill. [LB63]

SENATOR ASHFORD: Yeah. Yes. [LB63]

SENATOR CARLSON: Now, what I'm getting at is this, it's understandable to me why a prohibited person should not be carrying a knife, and that knife is new language in this bill. Now, if you'd go to page 6. [LB63]

SENATOR ASHFORD: Okay. [LB63]

SENATOR CARLSON: And starting in line 19. And we're not talking about prohibited person here, we're talking about anybody. [LB63]

SENATOR ASHFORD: Right. [LB63]

SENATOR CARLSON: So a firearm and a knife is new language in that section. If I've got a hunting knife that is of a certain length and in my pocket, I'm carrying a concealed weapon according to law. Is that correct? [LB63]

SENATOR ASHFORD: That's correct. [LB63]

SENATOR CARLSON: But it's not enforced. [LB63]

SENATOR ROBERT: One minute. [LB63]

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SENATOR ASHFORD: Well, it's hard to enforce. Unless they are apprehended with the weapon, it's hard to enforce. [LB63]

SENATOR CARLSON: And I'm glad it's not enforced because if I go hunting or whatever, I want to be able to carry something like that. I've got a concern that it might be selectively enforced, and... [LB63]

SENATOR ASHFORD: Right. And it does...in subsection (b) there is language that would...but you're concerned about someone being charged in the first place and I understand your point. [LB63]

SENATOR CARLSON: Okay. [LB63]

SENATOR ASHFORD: But it would be an offense, but there is an affirmative defense in the next section. [LB63]

SENATOR CARLSON: Okay. I need to read that a little more carefully, but otherwise that's a concern. We don't want laws that are selectively enforced. [LB63]

SENATOR ASHFORD: Right. [LB63]

SENATOR CARLSON: And then we get into the possibility of profiling and so forth, which I've got some difficulties with. [LB63]

SENATOR ROBERT: Time. [LB63]

SENATOR CARLSON: Thank you, Senator Ashford. [LB63]

SENATOR ROBERT: Thank you, Senator Carlson. Senator Pankonin, you are next and recognized. [LB63]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. I understand the policy component of much of this bill and the aim is for less crime, less violent crime, less guns in the hands of young people. And I think those are valid concerns and reasons for legislation. I do have a question though for Senator Ashford, if he would answer. [LB63]

SENATOR ROBERT: Senator Ashford, will you yield to a question? [LB63]

SENATOR ASHFORD: Yes. [LB63]

SENATOR PANKONIN: Senator Ashford, as a layperson, not an attorney, but it looks to

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me when you're proposing to make these sentences longer and in some cases considerably longer, would it make sense that people are going to be in prison longer if sentenced? [LB63]

SENATOR ASHFORD: Yes. [LB63]

SENATOR PANKONIN: And would it also be a concern that the cost...obviously we already have some crowding in prisons and will we have to have larger facilities, and is there...and I don't think that the fiscal note actually answered to my satisfaction about what the potential cost may be. [LB63]

SENATOR ASHFORD: That's correct, Senator Pankonin. I believe we're at 137 percent of capacity in our Corrections Department now, and this bill will, if properly enforced, will result in...especially the gang-related activities, will result in a larger number of incarcerated persons, and it will cost money, yes. And it may very likely cost more than \$1.5 million, but of course we don't absolutely know that, but yes. [LB63]

SENATOR PANKONIN: Well, my hope would be that the prevention components of this legislation work and that some of the other policies that we're talking about, whether it's behavioral health for children or bright futures in some of the programs that we're hoping to initiate or have been initiated even by the private sector in the Omaha area will be effective. But I just want members of the body to realize that if this is passed in its present form, and if that is the feeling that this is good policy to help prevent crime and violent offenses, that we better be ready, that the cost is going to be considerably more than what the fiscal note says, and that will have implications down the road for the state of Nebraska. Thank you. [LB63]

SENATOR ROBERT: Thank you, Senator Pankonin and Senator Ashford. Senator Pirsch, you are next and recognized. [LB63]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I just wanted to kind of weigh in. And I also, I appreciate Senator Pankonin's line of questioning with respect to cost because that, of course, will be affected by, you know, toughening of gun penalties. But I think the important thing here is that gun violence has reached epidemic levels. It has gotten to the point where it is such a pressing concern in many areas of the state that it's on people's minds on a daily basis, giving them a sense of...that they can't lead their life in a normal manner. And it has reached the point where it is a point where it even affects the economic well-being of the state, economic development. It is hard to lure people and companies to the state with the premise that it is the good life when we are reaching levels of violence that are being publicized around the nation. And so as we compete with other cities, other states around the United States to bring jobs and companies here, it certainly is a black eye on the city of Omaha and in different areas of the state that are affected as well. And I will at this point

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in time just yield the balance of my...well, I'll conclude my remarks here and on a different occasion speak to the number, specific number of offenses that are committed per year and the potential cost. But I think that that is a good question that has been raised by Senator Pankonin and it's something that we want to enter into knowing what we're doing, so. Thank you. [LB63]

SENATOR ROBERT: Thank you, Senator Pirsch. Senator Council, you are next and recognized. [LB63]

SENATOR COUNCIL: Thank you, Mr. President. First, I want to say I appreciate and respect the Judiciary Committee's efforts as well as the efforts of Senator Friend to eliminate or reduce violent crimes in our state. However, I don't agree that aspects, all aspects of this bill will achieve this noble objective. In the first instance, I don't see and I don't believe that repeal of the jailhouse informer bill contributes in any way to achieving the objective of reducing or eliminating violent crime in the state of Nebraska. Rather, repeal of the jailhouse informer bill merely relieves prosecuting attorneys of a duty that they apparently don't wish to be bound to comply with, with regard to their use of jailhouse informer testimony. In that regard I appreciate the committee's efforts, particularly the efforts of Senator Lathrop to address my concern regarding the jailhouse informer repeal portion of this legislation. However, I don't believe that the committee amendment with respect to the jailhouse informer aspect goes far enough. In fact, I believe that the repeal of the jailhouse informer legislation should be stricken from AM212 and the underlying bill LB63, and I will be introducing an amendment to that effect. So for those of you who question or had a question as to why I did not vote in support of moving this piece of legislation out of the committee, that is one of the reasons I didn't vote for that measure because clearly the intent and the objective of repealing the jailhouse informer legislation has absolutely nothing to do with reducing or eliminating crime in the state of Nebraska. Secondly, with regard to eliminating and reducing crime in the state of Nebraska, many of those who have risen to support this legislation have repeatedly referred to the increase in violent crimes in north Omaha. Well, north Omaha is the district that I represent, it's the district that I've lived in the majority, most of my entire life. So if anyone on this floor who is familiar with the issues of violent crime in north Omaha it would be myself. And in that regard during the committee hearing, the committee heard testimony from representatives of north Omaha who have been working to address the issue of reducing and eliminating violent crimes in the community. And in their testimony I would encourage my colleagues to review it because their testimony in support of LB63 was not testimony in support of stiffening the penalties. Their support was for the creation of the commission on the prevention of violence, because those individuals have been working daily in the community to address these prevention efforts. They have worked and developed programs such as the programs that this commission would provide funding for. So their testimony principally was in support of addressing the prevention end. [LB63]

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SENATOR ROBERT: One minute. [LB63]

SENATOR COUNCIL: Because I cannot speak for them directly, but I believe they share my opinion that stiffer penalties don't necessarily deter violent crime, that we have to understand the circumstances that exists with regard to the young people in particular who are engaging in these violent crimes. Consequences mean absolutely nothing to people who have no hope. And what we ought to be addressing is restoring the hope within the lives of some of these young people who turn to gang affiliation, who are influenced to engage in violent and criminal activities, and that the office of violent crime commission would be a step in the right direction. And when we talk about funding issues, note that... [LB63]

SENATOR ROBERT: Time. [LB63]

SENATOR COUNCIL: ...with regard to that there is none. [LB63]

SENATOR ROBERT: Thank you, Senator Council. Those wishing to speak: Senators Harms, Ashford, Friend, Price, Loudon, White, and others. (Doctor of the day introduced.) Senator Harms, you are next and recognized. [LB63]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Council, would you yield, please? [LB63]

SENATOR ROBERT: Senator Council, will you yield to a question? [LB63]

SENATOR COUNCIL: Yes. Yes, sir. [LB63]

SENATOR HARMS: Did you get your thoughts completely discussed here in regard... [LB63]

SENATOR COUNCIL: No, sir, I did not. [LB63]

SENATOR HARMS: ...because you and I had an off-mike discussion about...the question I asked you was why you did not vote for this bill. Do you want to cover any more of that or did you get...what you covered what you wanted to say? I wanted to make sure. [LB63]

SENATOR COUNCIL: Particularly I want to emphasize and I advised my colleagues on the committee of my specific objection to the repeal of the jailhouse informer legislation. Again, that has absolutely no bearing and no relevance on...if the overarching goal and objective is to reduce violent crime in our communities, the repeal of that has absolutely no effect on that. The second issue has to do with if you look at some of the enhancements, for example. Again, if you understand what's occurring in the

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communities where you see the increase and the rise in violence, I also asked questions, Senator Harms, during the committee. You know, why don't we do more to stop the flow of guns in the community, and why don't we do more to prosecute individuals who place these guns in the hands of individuals? And if you look at the enhancement schedule that was provided by Senator Friend...let me give you an example: One of the concerns is the increase in gun violence being committed by juveniles. And if you look at the enhancements, it does provide for an enhancement for a juvenile's unlawful possession from a Class III misdemeanor to a Class I misdemeanor. But in terms of the unlawful transfer of a firearm to that juvenile, we go from a Class IV to a Class III, and we go from a minimum of zero to a minimum of a year. I mean, if we're going to be serious about punishing the people who are responsible for the increase in gun violence in our communities, it ought to be the people who are providing those guns. And if you compare the unlawful possession of a handgun by a juvenile...again, I live in the community. If you look in the bill, the definition of handgun does not include machine gun, it doesn't include short rifle, it doesn't include short shotgun. So we're going to enhance the penalty for unlawful possession of a handgun by a juvenile, but do absolutely nothing with regard to their unlawful possession of machine guns, short rifles, short shotguns. Again, you do a comparison between use of a deadly weapon to commit a felony. The enhancement goes from a minimum of 1 to a maximum of 20 to a minimum of 1 and a maximum of 50. Now, clearly we don't want people committing felonies using a weapon, but you look down to shooting a firearm from a motor vehicle, and it goes to a Class IC felony with a mandatory five-year minimum. You know, we need to put our priorities in perspective when we talk about...if we believe fundamentally that stiffening penalties deters crime and increases the safety of residents of the community, then why don't we focus our attention on the areas where we could probably have some impact assuming, again... [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR COUNCIL: ...assuming again that consequences mean anything to people who don't have hope. [LB63]

SENATOR HARMS: Thank you very much. How much time do I have? [LB63]

SENATOR ROBERT: Forty-five seconds. [LB63]

SENATOR HARMS: Senator Ashford, 45 seconds. [LB63]

SENATOR ROBERT: Senator Ashford, will you yield? [LB63]

SENATOR ASHFORD: I will. [LB63]

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SENATOR HARMS: You know, we don't have much time here. [LB63]

SENATOR ASHFORD: I shall, I mean. [LB63]

SENATOR HARMS: What I would like to talk to you a little bit about is the Office of Violence Prevention or the Commission on Law Enforcement and Criminal Justice, this is in your provision. I don't think we'll probably have enough time and we'll have to come back, but I just... [LB63]

SENATOR ASHFORD: And I may be next and I can give you time to ask me the question again or if you want, or... [LB63]

SENATOR HARMS: Okay. I'd just have some interest in that and would like to know a little more about it and how it's going to be organized, what the cost is. [LB63]

SENATOR ASHFORD: Okay. [LB63]

SENATOR HARMS: And where these people will be spread throughout the state of Nebraska and...okay. Thank you, Mr. President. [LB63]

SENATOR ROBERT: Thank you, Senator Harms and Senator Council. Senator Ashford, you are next. [LB63]

SENATOR ASHFORD: Thank you. And would you like to go ahead or (laugh). [LB63]

SENATOR ROBERT: Senator Harms, will you yield? [LB63]

SENATOR HARMS: Yes, I will. Thank you, Senator Ashford. Could you help me better understand how this would be organized? [LB63]

SENATOR ASHFORD: Yeah. And let me be as candid as I can about how I...my vision of it, how it would work. The Crime Commission would be the overseer. The idea of having a director or someone engaged in this is to...and a couple of things, one is to find the best practice. There are several cities that have done crime prevention projects that have been very successful, and we don't really do that. In fact, Tom Warren, Brenda's brother, Senator Council's brother, who is really an expert in this area as police chief and now at the Urban League said, we don't have prevention programs in our state and in our city to deal with these issues. So that's what the director would do, and also seek grant money. But let me be...and it would have statewide...and the reason that we had organized this around the Crime Commission was so it would have statewide impact, so that if Grand Island or Scottsbluff wanted to apply to this Office of Violence Prevention for a grant, for example, or for logistical support or whatever that that would be available. When I say that Omaha...when I said Omaha hopefully we would have a plan

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in place by June in Omaha, what I...I wasn't trying to say there would be only Omaha...is that there are groups working in Omaha right now with police. The north Omaha empowerment group, very...and what is needed I think is to coordinate all those efforts as quickly as possible to try to reduce the shootings this summer. I think that's the crisis. That doesn't mean that there aren't issues across the state. I think that this office is critical. In fact, it's absolutely critical to future eradication of violence because prevention is so key. [LB63]

SENATOR HARMS: I guess the question that I have then would be what is the actual fiscal impact of the office and what would be the cost to us? And I guess I do have concerns about making sure that rural Nebraska has some type of involvement here because not all gangs are just in Omaha and Lincoln. We're beginning to see more of that move out into our area, a lot of wannabe gang kinds of things, which is really dangerous. So I'm just kind of curious about this. I'm not against this bill. I just have a number of questions. [LB63]

SENATOR ASHFORD: Right. You know, and I, this fall when we were together in Scottsbluff, Senator Harms, that issue was raised. There's no question that the intent of this office is to be statewide. And there is absolutely no question that gang activity is statewide and that drug activity is statewide. Recidivism is a statewide problem. And in answer to Senator...and the cost, what I've estimated the cost to be is \$445,000 per year. And once this gets going I think the office will be better be able to calculate the fiscal impact. But I do think it's going to take commitment of state dollars to make this effective, and it may be more, may be less. And there's also the opportunity to obtain private money. And though that's always, you know, somewhat out there to suggest that, I think there's a possibility of that. [LB63]

SENATOR HARMS: Thank you. [LB63]

SENATOR ASHFORD: How much time do I have, Senator? [LB63]

SENATOR ROBERT: One, fifteen, Senator Ashford. [LB63]

SENATOR ASHFORD: Okay. And I appreciate Senator Harms's questions. I'd like to just very briefly and then we can move on here. Senator Pankonin asked the question about the cost of incarceration. Great question. Our recidivism rate in Nebraska exceeds 55 percent in adult corrections. One of the reasons why that is, is because we don't deal as if...though I will tell you, the Department of Corrections has done a tremendously admirable job in developing programs to reduce recidivism. But we need to have the other end of it, we need to have this prevention piece in place so that when someone comes out of the correctional facility, even though they've gone through these programs, that the Violence Prevention Office can also supplement that because a lot of these people are recidivists: They've been in trouble before; they've been incarcerated

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before. So there is a tie-in, and even though costs could go up, my hope and vision is that costs will eventually level out as the recidivism piece works, the office works together with law enforcement, we pull people off the street. [LB63]

SENATOR ROBERT: Time. Thank you, Senator Ashford. Senator Friend, you are next and recognized. [LB63]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. Briefly, there have been some questions brought up and I wanted to address a couple of them. This language, the definition of "gangs," actually appears on page 27 of AM212. And, of course, this definition didn't drop out of the sky and we didn't invent it here in Nebraska. I mean, California, other states use it. There is a burden of proof on a prosecutor and it's based on criteria in order to convict somebody or to promote the conviction of somebody for being in a gang. The definition, as Senator Haar asked earlier, would not apply to a group of guys sitting around or gals or whoever is sitting around playing poker because there's always intent involved and there's always a prosecutor's burden of proof involved based on criteria for what a gang member is. Senator Ashford was bringing up the longer sentences idea and the cost. Remember, and I said this from the outset, there is specific deterrents, there is real deterrents in increasing and...you know, we're not a bunch of criminologists out here and we're not a bunch of academicians that are going to sit and try to analyze this for a semester. I think it's fair to say that there's a specific deterrent associated with enhanced penalties. You don't want to go in if you've got half a brain at gunpoint and rob a bank because it's a federal offense. And when you go into federal court after doing something like that, you're shaking in your boots because the game is over, the jig is up. There's hard time associated with that. The point here is we're trying to mirror that and there's specific deterrents associated with it. That would go, as far as I'm concerned, to the top of a General Fund priority list: Protecting people from people that they are afraid of. Now, we haven't even hardly talked about the Pirsch amendment, AM637. Proportion is important here. Here's what this amendment does: Defacing a firearm from a Class IV to a Class III felony. That means a Class IV is now...a prosecutor has the ability to go from zero to five years. A Class III is there's a minimum, a maximum/minimum of one and maximum of 20 years associated with it. Does this give prosecutors another tool? Sure, it does. Is it necessary? We're going to have to ask ourselves that question. I haven't heard anybody talking about this amendment, and to this point I've heard Senator Pirsch talk about it once. And I'm not sure where to go with it. I don't...we're just adding things to this now for the sake of adding it. I'm not really sure. Anyway, I'm almost ambivalent about this amendment. I'll probably vote for it or if somebody can give me a good reason to vote against it, I will. I'm...have to do some more investigation. With that, Mr. President, I'll give the rest of my time to Senator Lautenbaugh. [LB63]

SENATOR ROBERT: Senator Lautenbaugh, 1:08. [LB63]

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SENATOR LAUTENBAUGH: Thank you, Mr. President, Senator Friend. I did want to respond to the jailhouse informer issue and I don't know if I'll get this all in one minute. The statute that we currently have, I believe, is unique in the nation and we tweaked it a little last year and I had some problems with it at the time. Simply put, as I read the existing jailhouse informant statute it would basically impute knowledge to every county attorney of everything, any deputy county attorney or police officer might have done to give anything of benefit to someone to get information about a possible criminal charge. It was so crazy-broad in my opinion that it would cause lots of convictions to be subject to possibly being overturned if it was determined something had not been disclosed that was known to someone in the police department or someone in the county attorney's office. That is why overturning this is important to reducing crime because I believe our current statute--and I said this last year--would have the effect of putting people back on the street who commit crimes. That's why it's part of this package, that's why it makes sense, and I would urge you to keep that in and support this bill and the committee amendment. Thank you. [LB63]

SENATOR CARLSON PRESIDING []

SENATOR CARLSON: Thank you, Senator Lautenbaugh and Senator Friend. Senator Price, you're recognized. [LB63]

SENATOR PRICE: Mr. President, members of the body, thank you. I rise, again, in support of the concepts of what we're trying to do here. I think that anything we can do to curb the violence, to return our society to one where people are free to move about without fear, I think that's a very worthy goal. We need to move forward on that. But I do have a question for Senator Ashford if he would yield? [LB63]

SENATOR CARLSON: Senator Ashford, would you yield? [LB63]

SENATOR ASHFORD: Yes, yes. [LB63]

SENATOR PRICE: Thank you. Just one quick question: On page 13, line 9, we're talking about, I believe, if there had been any conviction within the last seven years. We picked a threshold of seven years then. I was wondering why we picked seven years. [LB63]

SENATOR ASHFORD: Seven years is a threshold...there's no particular reason that I have in my head, Senator Price. Possibly Senator Friend might have an answer to that. I'm not sure. [LB63]

SENATOR PRICE: Okay. Then I'll ask him. You can always get back to me off mike, but it was curious to me why we picked seven years. I thought there was some statutory thing or a window of opportunity. [LB63]

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SENATOR ASHFORD: Not that I'm aware of. I think we were...this particular provision came from the Attorney General and I can go out and ask him as well. [LB63]

SENATOR PRICE: Okay, not a problem then. Thank you very much. May I ask if Senator Friend would yield to a question? [LB63]

SENATOR CARLSON: Senator Friend, would you yield? [LB63]

SENATOR FRIEND: Yes, I will. [LB63]

SENATOR PRICE: Thank you very much, Senator Friend. Again, my quick question was on the, I believe AM212 there, on page 13, line 9, paragraph 9, we talked about there being a threshold of a conviction within the previous seven years. And I was wondering why we used seven years. [LB63]

SENATOR FRIEND: I could have answered that quicker. I don't know why seven was chosen. This section also is...it's my understanding that this is going to be amended. [LB63]

SENATOR PRICE: Okay. great. If that's going to be amended also, I mean, there are a lot of things going on. It's a very technical bill, and I just want to make sure that we have a reason for it. I'm sure someone picked seven for a reason, and I just want to make sure that we were consistent with that. With that, sir, I would yield the balance of my time to Senator Lautenbaugh, if he would like it. [LB63]

SENATOR CARLSON: Senator Lautenbaugh waives time. Thank you, Senator Price, Senator Ashford, and Senator Friend. Those wishing to speak: Senators Loudon, White, Council, Harms, and others. Senator Loudon, you are recognized. [LB63]

SENATOR LOUDON: Thank you, Mr. President and members of the body. I think as I listen to Senator Council, I think she had some very good points that she brought across that are we doing the right thing, are we putting the right punishments in the right places for where the problems are caused. And I also concerned when Senator Pankonin also mentioned that some of these issues as they're brought forwards and made into crimes that we could be increasing our jailhouse population, which is a problem now. So we have to be very careful about what we're doing when we do start setting up new statutes to increase punishments for some of these things that some of them are serious and some of them are not so serious. That's the reason I wonder where we should go on some of it. I think that's a very serious punishment, as I mentioned before, with using the revocation of your driver's license for some of these crimes. I don't think that's the type of punishment that should be involved in something if it's a graffiti or some misdemeanor crimes. And some of those crimes could affect people for a long period of

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time, and they were not necessarily that...they're not violent crimes and it could be a case where some young folks are out doing something and they really could be handled in other ways by making them clean it up. Also, some of these people that do this graffiti, these gangs and that sort of thing, if they're...like you mentioned, there are some very tough customers in there. I don't think it makes any difference whether they have a driver's license or not. These people that Senator Council pointed out, some of them don't have any hope and could care less. So if you took the driver's license away from them, wouldn't mean anything at all. I think we have other issues in that bill that need to be addressed. Some of them as I looked before, if you go this driver's license route, there's probably going to have to be some other statutes that have to be changed somewhere along the line in order to set that up so that...in ways that they can get the driver's license back and who's going to revoke them and where they're going to go. So I think you're working on something that's probably is going to have some unintended consequences. I think we have to be very careful. When we come in here and start making laws that are probably major issues in some of the areas such as your metropolitan cities, then we have to be very careful on what those laws affect areas that are more thinly populated. Some of this as far as their handguns and some of that, if it's going to be illegal for them to have handguns someplace, it's going to be that way all over Nebraska. I realize some of those handgun regulations are in federal statute, so we probably don't have anything to do with that. But I think there is some things there that have to be worked out on this bill, and at the present time I do have a problem with supporting the entire amendment in the shape that it's in. I would like to see some more work done on it, and it should be done before we go to Select File. Thank you, Mr. President. [LB63]

SENATOR CARLSON: Thank you, Senator Louden. Senator White, you are recognized. [LB63]

SENATOR WHITE: Thank you, Mr. President. I, also, represent an area in north Omaha, an area that's plagued by an increasing amount of violent crime. Next to the economy and the ability to keep their house and their families fed, for many of my constituents the biggest single concern is crime. I support this bill. I have concerns, some of which Senator Council expressed, on some of the burdens of proof associated with the jailhouse informant laws. But in terms of the other matters, I fully support it. I cannot explain to people who do not live in an inner city neighborhood what an incredible cancer graffiti is. Some folks have said that we shouldn't take it so seriously, but I will tell you it intimidates people. It makes them doubt that they live in a community that cares about them. It makes them wonder whether they're safe. It drives down their property values and it demoralizes them. Because of the graffiti bill and because of the other enhancements and because of the terrible problems we've been facing, I support this bill. And I thank you, Mr. President. [LB63]

SENATOR CARLSON: Thank you, Senator White. Mr. Clerk for an announcement.

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[LB63]

CLERK: Mr. President, first of all, General Affairs Committee will have an Executive Session at 10:30 in Room 2022, General Affairs at 10:30 in 2022. Some items, if I may, Mr. President. Retirement Systems reports LB188 to General File with amendments, signed by Senator Pankonin. Health Committee reports LB599 and LB604 to General File; LB371, LB390, LB446, LB451 to General File with amendments, signed by Senator Gay. Transportation by Senator Fischer reports LB372 to General File and the following bills indefinitely postponed: LB320, LB384, LB543. Priority bill designations: Senator Nordquist LB601; Senator Avery LB136, and the Revenue Committee has selected LB164 and LB213. Hearing notice from Judiciary. New A bill: (Read LB172A and LB603A by title for the first time.) New resolution, LR48 by Senator Adams. That will be laid over. And confirmation reports, one report from General Affairs and four separate reports from Health and Human Services, signed by respective Chairs. Thank you, Mr. President. That's all I have. (Legislative Journal pages 688-696.) [LR48 LB136 LB164 LB172A LB188 LB213 LB320 LB371 LB372 LB384 LB390 LB446 LB451 LB543 LB599 LB601 LB603A LB604]

SENATOR CARLSON: Thank you, Mr. Clerk. We return to discussion of AM637. Those wishing to speak: Senators Council, Harms, Hansen, Pirsch, and others. Senator Council, you are recognized. I don't see Senator Council. Senator Harms, you're recognized. [LB63]

SENATOR HARMS: Thank you, Mr. President and colleagues. Mr. President, is this my third time? What is it if you could tell me, please? [LB63]

SENATOR CARLSON: This is your third time. [LB63]

SENATOR HARMS: Oh, thank you very much. Senator Ashford. [LB63]

SENATOR CARLSON: Senator Ashford, would you yield? [LB63]

SENATOR ASHFORD: Yes, I will. [LB63]

SENATOR CARLSON: Senator Ashford, I'd like to see if we can't finish up on our conversation we started earlier in regard to the Office of Violence Prevention on the commission. Is it correct that other states...I think you mentioned that other states have this office. Is that correct? [LB63]

SENATOR ASHFORD: Here's what other states have done, what many states, Ohio, Illinois, numerous states have developed a coordinated plans for addressing...preventing violence. Each one is different. And I've referred to a couple of them in my packet, one in Ohio and one in Illinois. There's also one in North Carolina.

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Each one is slightly different. What is clear from talking to law enforcement all summer and fall is that that has not been a priority in our state necessarily. Obviously, law enforcement engages in as much prevention as they can, but there hasn't been a coordinated effort and that's what this is designed to do. [LB63]

SENATOR HARMS: In the coordinated effort throughout the nation, what's the success ratio and what have we found in regard to the decline of crime and what's really occurring with all of it because I think this all fits together. [LB63]

SENATOR ASHFORD: You know, Senator Harms, thank you. You are asking just wonderful questions. And the success rate is pretty good. And in fact, I would not even say that it's mixed in most cities, large urban areas or states. In the Chicago program there are many cities throughout Chicago that are part...or throughout Illinois that are part of their particular approach, the CeaseFire approach. There's been a study done by Northwestern University, it's commissioned by the Department of Justice or the Department of Justice I believe is correct, and it's very data-driven. And there has been data, very specifically showing that this violence intervention or interruption techniques used in that program has reduced violence. In Boston, which is sort of the prototype for all these plans, significant reduction. In Cincinnati, 50 percent, I believe, reduction in the last two to three years. That particular program was developed in Cincinnati. It emanated out of some difficult police/community relations, and that was sort of the impetus to do that program there. Basically what this is kind of tough love stuff. They get on the street. They yank the kids off the street in a variety of different ways. They use faith-based groups. Interestingly enough, in the Chicago program--and I know I'm taking your time--in the Chicago program, Cardinal George who's actually from Omaha and taught at Creighton in the philosophy department, the cardinal in the Chicago area takes a very active and is kind of one of the leaders of that program. And they literally go to the hot spots themselves. They go to the places where these shootings have occurred. The other effective methodology, because so many of these shootings are retaliatory in nature and they're gang related, these particular workers who work in these areas will go to the hospitals and will talk down the victim's families, and talk them down away from retaliation. And we can give you material on all the cities, but my analysis is they have been successful in reducing violence. [LB63]

SENATOR HARMS: Thank you. Don't go away from the mike now, I'm not done. I still would like to have you yield. I have some other questions I think you can probably help me with. [LB63]

SENATOR CARLSON: One minute. [LB63]

SENATOR HARMS: Thank you, Mr. President. Do we have any data or statistics in this great state that show us how many gangs we have... [LB63]

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SENATOR ASHFORD: Yes. [LB63]

SENATOR HARMS: ...and the kind of violence we're starting to see? [LB63]

SENATOR ASHFORD: Yes. [LB63]

SENATOR HARMS: Is there any data at all that brings this out for us to look at? [LB63]

SENATOR ASHFORD: Yes. In the Omaha area, we have around 3,000 gang...active gang members. There are approximately 120 or so active gangs in the Omaha metropolitan area and they can be as small as a neighborhood cell or as large as an area of the city. They exist...and to Senator Council's point, these gangs exist everywhere in the city of Omaha, not just north Omaha. They exist in south Omaha. The graffiti that Senator Nordquist and Senator Mello have been talking about are--and it occurs in other cities, Grand Island I know has had and maybe Scottsbluff--are indicative... [LB63]

SENATOR CARLSON: Time. [LB63]

SENATOR ASHFORD: ...of gang activity. [LB63]

SENATOR CARLSON: Thank you, Senators Harms and Ashford. Senator Hansen, you're recognized to speak. [LB63]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. We're still talking about children today as we have been all week, but we're talking about penalty, changing felony violations from one class to another class. When you talk about gangs, we're still talking about the separation of a family and a younger member, more than likely. We're just changing the penalties, but we're driving a wedge between those families, between the children and the parents. So where are the children in this discussion? I have an alternative and I don't think I'll have it as an amendment but I do want to put it on the floor for consideration. I know where you can get some clean air and low humidity. I know where there's a place in the state with low crime, great schools, both public and private. I know a place in the state that has great sewer systems and that's important to a lot of people in metropolitan areas. I know where there's a place that has good...has great hunting, fishing, boating opportunities within 30 miles of four major recreation lakes for boating, skiing, tubing, anything you want to do on the water. It's halfway between Omaha and Denver. It's halfway between the Missouri River and the Rockies. It's halfway between legalized traffic race and another legalized road race. Senator Adams, it's not York. But we have great employment opportunities too. We have the Great Platte River Road, also known as I-80, and U.S. 83 runs through a part of this state. We have the Union Pacific Railroad who's a great employer with the largest railroad classification yard in the world. Senator Price said

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what this bill is about is free to move about without fear. I can find you a place. If you're looking for change, I can find you a place. If you're looking for hope, I can find you a place. I'm not sure who it was but I'll attribute it to Buffalo Bill Cody--go west, young families, go west. There is an alternative to living in an area that, you know, has a lot of problems and crime is certainly part of that problem and now we're having gang trouble. I'm not saying that North Platte, Lincoln County is free of gangs but certainly has an opportunity and we would more than welcome families, young families from Omaha, to look west. When you concentrate cattle, we have trouble. I think when we concentrate dogs we have trouble. When we concentrate people, we have problems. The lack of concentration can be found about 250 miles west of here. Senator Friend, I would give you the rest of my time. [LB63]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Senator Friend, you have 1 minute, 40 seconds. [LB63]

SENATOR FRIEND: Thank you, Senator Hansen. Thank you, Mr. President and members of the Legislature. The...it's not a concern to me right now but a lot of times our discussions out here--less this year than in the past but I think that there are a lot of reasons for that--there's no rhythm to this right now. And everything doesn't have to be wrapped in a perfect package for me, but there's no rhythm to this discussion. We're concerned about the bill, we brought that up, LB63 and AM212. We have our own idea about how we think it could be changed. We also have our own idea about why it might be a bad idea to increase certain penalties that we're increasing in here or some of the penalties might not be strict enough. However, we have AM637 here. It's a serious amendment. It's a real amendment and it does something real. This is not a filibuster of this bill. We've talked about it twice. I spoke to it once and Senator Pirsch opened on it. Now I'm not telling the legislative body what to do (laugh) but I would recommend that we dice this amendment up a little because it's legitimate subject matter. "Any person who intentionally removes, defaces, covers, alters, or destroys the manufacturer's identification mark or serial number or other distinguishing numbers on any firearm commits the offense..." [LB63]

SPEAKER FLOOD: Time, Senator. [LB63]

SENATOR FRIEND: Thank you, Mr. President. [LB63]

SPEAKER FLOOD: Thank you, Senator Friend. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR40 and LR41. Continuing on with discussion, Senator Pirsch, you are recognized. [LR40 LR41 LB63]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I appreciate the question by Senator Hansen. You know, is this...you know, we're in a statewide elected

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office, how does this apply necessarily to those areas outstate? And I posit it does. This is not just a bill that affects gun violence in Omaha. That's not the only area in the state that is affected by gun violence, as those in Norfolk know. As the couple who came from north-central Nebraska actually travelled to a hospital in Omaha for treatment for a medical condition for the husband, and while his wife was, I believe, bringing him, parking in the parking lot of the hospital and walking indoors, in a random act of violence, shot. And so it does affect more than just...we're not just talking about gun violence that's affecting people in one small part of the state. This is clearly a statewide issue, just as water shortages that affect areas in the western area of the state during certain years have profound statewide implications as well. And so I just wanted to address that briefly. But again, back to my amendment, AM637, I don't want there to be any misunderstandings about what this does. Currently, the Judiciary Committee amendment, the underlying amendment, AM212, presents at least 17 areas of toughening laws, violence and gun laws, creating a tougher penalty and, for instance, possession of a firearm on school ground, unlawful transfer of a firearm to a juvenile, possession of a knife or brass or iron knuckles by a prohibited person. What...in addition to those 17 areas, there were 3 very noticeable areas that were not covered by AM212. So my amendment is a way to get a holistic approach. I think it might have been by oversight, but it just makes it comprehensive so that there's no loopholes, no open places in the...in what should be a unified approach to gun violence. And so there's three specific criminal statutes that currently exist that are not addressed by the 17 statutes that are addressed in AM212, so it's not sweeping in nature. I think it just closes a little gap and it is entirely in accord with the underlying precepts of AM212, the Judiciary Committee's, and it affects three serious areas. Possession of a defaced firearm is not addressed by the underlying committee amendment and it would be addressed and that is, of course, a serious crime because, of course, any time that you're possessing a defaced firearm, that is the serial number has been filed off of the firearm, chances are very good that there's a reason that that serial number has been filed off that firearm; that you're intending to use the firearm in a malevolent way, whether it's robbery or committing a murder. [LB63]

SENATOR CARLSON PRESIDING []

SENATOR CARLSON: One minute. [LB63]

SENATOR PIRSCH: Again, the second of the three is defacing a firearm, which means you're in the process or they accuse you of filing off the serial number, so it's kind of closely related to the first. And then the third way is possessing a stolen firearm and, again, any time you're possessing a stolen firearm, that is highly indicative that you intend--and I can tell you this just based on my background in prosecuting gun violations--it's highly indicative of an intent to use the firearm for a crime or in a malevolent way. And so these are not three minor areas. These are 3 serious loopholes that need to be incorporated into this comprehensive approach, the other 17, needs to

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join the other 17 so that it is a unified approach and that we're not missing anything, nothing is falling through the cracks. And so that's what this amendment does. It's not revolutionary in scope. It just fills a few cracks and is entirely uniform and consistent with the underlying premise of AM212, which is why it is not...I don't think there's been any opposition by the Judiciary Committee or others to my amendment. [LB63]

SENATOR CARLSON: Time. [LB63]

SENATOR PIRSCH: Thank you. [LB63]

SENATOR CARLSON: Those senators still wishing to speak: Senator Coash, Friend, and Lautenbaugh. Senator Coash, you are recognized. I don't see Senator Coash. Senator Friend, you're recognized. [LB63]

SENATOR FRIEND: Thank you, Mr. President. I'd like to yield my time to Senator Lautenbaugh, please. [LB63]

SENATOR CARLSON: Senator Lautenbaugh, you have 4 minutes and 50 seconds. [LB63]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. Thank you, Senator Friend. I do rise in support of this amendment. It is very narrowly tailored. It is an important thing to address, I believe. I thank Senator Pirsch for bringing it. I think it makes perfect sense and I would urge you to support it. Thank you. [LB63]

SENATOR CARLSON: Thank you, Senator Lautenbaugh and Senator Friend. And, Senator Lautenbaugh, you're recognized to speak again. [LB63]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I'd like to call the question. [LB63]

SENATOR CARLSON: Question has been called. Do I see five hands? There are five hands. Question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB63]

CLERK: 28 ayes, 0 nays to cease debate, Mr. President. [LB63]

SENATOR CARLSON: Debate does cease. Senator Pirsch, you are recognized to close. [LB63]

SENATOR PIRSCH: Thank you, Mr. President. I would ask for a call of the house. [LB63]

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SENATOR CARLSON: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB63]

CLERK: 30 ayes, 0 nays to place the house under call, Mr. President. [LB63]

SENATOR CARLSON: 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 Pirsch, do you want to proceed? The clock is running. You have 3 minutes and 50 seconds. [LB63]

SENATOR PIRSCH: Three minutes and fifty seconds? I'll begin then. Again, amendment...my amendment here that we're soon to vote on would be an amendment to the underlying Judiciary Committee amendment, AM212. It is in accord and in uniformity. You have heard no opposition from anyone here today about adding my amendment onto the Judiciary Committee amendment. The Judiciary Committee amendment in many, many instances makes for enhanced penalties, gives the judge an option in many cases for tougher penalties for gun violence. Amendment...my amendment would simply add three to the list that I believe were inadvertently not added, part of AM212, three very important crimes that should...gun violence crimes and should be part of the package. And that's why I think you have heard no opposition here today. First, it would bump up possession of a defaced firearm from a Class IV felony to a Class III felony; secondly, it would bump up the penalty, possible penalty, for defacing a firearm; and thirdly, bump up the penalty for possessing a stolen firearm, which was again a Class IV currently, would bump it up to a Class III felony. So in so doing, these three crimes would become consistent, I think in accord with all of the other enhancement of penalties that are embodied in the Judiciary Committee amendment. Again, it is not opposed. I haven't heard a word of opposition here today and I think these are three serious crimes. Possession, if a firearm is defaced there's a reason that the serial number is filed off of it. The person who is using that firearm wants not to be...have that firearm traced and that's because typically those are used then in robberies, murders, and other serious crimes. It's a very serious addition that we have to add. Defacing a firearm is, of course, the process by which you file off the serial number so that you can't trace back that firearm. Again, the only reason I can think of that you would do that, you don't really have a hobby, it's because you intend to use that firearm for some sort of serious crime, murder, robbery, etcetera. Possession of a stolen firearm, again, firearms are--and I can tell you this is rampant--when you're looking to commit a crime, you go out and you steal a firearm because that is something then that they cannot trace back to you. So these are three very serious crimes to join... [LB63]

SENATOR CARLSON: One minute. [LB63]

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SENATOR PIRSCH: ...the long list of other serious crimes that are embodied in the Judiciary Committee amendment. They are consistent with the intent and the spirit of the Judiciary Committee, which is why I believe there is no opposition voiced here today from anyone, just support and I welcome that. And I would urge you then to vote yes on this amendment. Thank you. [LB63]

SENATOR CARLSON: Thank you, Senator Pirsch. All members are accounted for. Senator Pirsch, how would you like to proceed? [LB63]

SENATOR PIRSCH: A board vote, if you would. [LB63]

SENATOR CARLSON: You have 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. Has everyone voted that wishes to? Record, Mr. Clerk. [LB63]

CLERK: 47 ayes, 0 nays, Mr. President, on the amendment. [LB63]

SENATOR CARLSON: The amendment is adopted. The call is raised. [LB63]

CLERK: Mr. President, Senator Pirsch would move to amend with AM638. (Legislative Journal page 684.) [LB63]

SENATOR CARLSON: Senator Pirsch, you are recognized to open on your amendment. [LB63]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. This is not a lengthy amendment, AM638 to LB...the underlying Judiciary Committee amendment. And again the...as set forth in the Judiciary Committee amendment, an entity called the Office of Violence Prevention would be established, and Senator Ashford spoke about his concept for that. This really doesn't...and there were some questions about funding and how it will be set up. This doesn't really speak to the level of funding or anything of that sort but it says to the...this amendment says, to the extent that that Office of Violence Prevention is created, that that Office of Violence Prevention shall conduct public awareness activities designed to publicize the increased penalties under this legislative bill for violent criminal offenses. The public awareness activities may include but not...but need not be limited to public service announcements, information kits, brochures, posters, booklets, billboards, radio and television promotions. This was a concept that also was brought forward by City Councilman Dan Welch in the city of Omaha that...and I think it is, in part and parcel, a matter of fairness that if we are serious about...and I think we are, the level of gun violence reaching epidemic levels throughout areas of the state and affecting many, you know, Nebraskans throughout the state, that in so making the penalties tougher, the purpose of the penalties should not be to incarcerate as many people as possible. The purpose that I think we're getting at

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here is to deter people from using firearms in violent ways and that I think has been pretty clear from the floor debate. And consistent with that then is not only must we make those penalties tougher but if the idea is deterrence, we must make sure that the public is...those who may be considering committing these types of crimes are aware of what has changed, what...the increased penalties for doing these kind of activities, violent activities, using guns. And so I think that this, to the extent that an Office of Violence Prevention exists, that this should be one of their main concerns in educating those people who are potentially, have in the past, or are perhaps likely to be committing these type of crimes, that it's a new day and age, that society is not willing to accept the level of violence that have rocked our communities and made everyone in that community feel unsafe, like they can't go about their daily life without...with a sense of well-being and peace. And so I think this will go a long way to ensure that if we just, you know, that the truth of the matter is you will be exiled in a sense, in a large sense; that there is no more soft handedness when it comes to utilizing guns for violence in the community. And so I think this is a great way that we can make sure that that message is made clear and loud to those who would use guns for illegal violent activities. And so in a nutshell, that's what this does, and so I certainly appreciate your support. Thank you. [LB63]

SENATOR CARLSON: Thank you, Senator Pirsch, for your opening on AM638. (Visitors introduced.) There are senators wishing to speak. We return to discussion. Senator Council, you're recognized. [LB63]

SENATOR COUNCIL: Yes, thank you, Mr. President. And, Senator Pirsch, would you yield for a question, please? [LB63]

SENATOR PIRSCH: I would. [LB63]

SENATOR COUNCIL: And with regard to your amendment with the Violence Prevention, has there been any estimate of the amount of funds that would be necessary to achieve that objective and, if so, where are those funds to be derived from? [LB63]

SENATOR PIRSCH: Yeah, I appreciate that question regarding financing. I can tell you, there is, you know, been no study, but my intent is that this is something that I think we can accomplish without any cost at all. I think specifically...now I didn't want to necessarily curtail, I mean if...and, you know, the...curtail other planned activities of any entity in light of changing circumstances, but my "envisionment" of what this would mean is that, because it allows for such things as public service announcements, which in my understanding would be free, and I think that's an effective way to reach the public, is, you know, via many different types of media, radio, TV, but that wouldn't have any cost. Now I think that that would also...it does also allow for other methods and mechanisms, but the way I envision this would be I wouldn't want to have, you know,

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large sums, at least at the very first, expended towards this. I think that you can be...effectively raise public awareness without spending dollar one, is how I kind of look at this, so. But it does give at least broad, enabling language to this entity, should this entity exist and decided to be fund...there's no, by the way, I don't believe a fiscal note so it isn't...and I think that's a good question. It hasn't been a decided matter that just because the entity is created that it would be funded in any manner or mechanism. So it doesn't rely on any funding and I don't think this is...there is a fiscal note that follows it. So again, this would be something that can be accomplished without any expenditure of any revenue, so. [LB63]

SENATOR COUNCIL: And if you would yield to one other question, Senator Pirsch,... [LB63]

SENATOR PIRSCH: I would, yes. [LB63]

SENATOR COUNCIL: ...on your previous amendment, AM637, you will note that I did not vote on that amendment and I was curious. The amendment provided for the increase in the penalty for someone who knowingly possesses a stolen weapon, but I know this Legislature has debated in the past and I'm curious as to why there was no consideration given to imposing duties on gun owners to report their stolen weapons. [LB63]

SENATOR PIRSCH: Well, I certainly, you know, when it comes to my experience and background as a prosecutor, I can tell you that in so many of the instances in which guns were used in crimes, those guns were often stolen because, of course, the criminal doesn't want to have some sort of way to have law enforcement trace him back to the weapon. So...but with respect to your concern, I guess that would be, you know, that wasn't the purview or the way I was approaching the issue, but if that, you know, if that is something that you'd be interested in looking, I'm sure that that would be, you know, I guess offering an amendment or some sort of way to interject that issue into the body... [LB63]

SENATOR CARLSON: One minute. [LB63]

SENATOR PIRSCH: ...for consideration, I mean I, you know, I guess would be an effective way to raise that issue. But it wasn't the issue that I was particularly looking at when I was, you know, when I was looking at filing an amendment to this, so. [LB63]

SENATOR COUNCIL: Okay. And the reason I asked the question, Senator Pirsch, is that in the original bill and AM212 there are enhanced penalties for unlawful transfer of a firearm to a juvenile, an unlawful possession of a handgun by a juvenile, but we do... [LB63]

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SENATOR PIRSCH: Uh-huh. [LB63]

SENATOR COUNCIL: ...we do nothing with regard to how the juvenile obtained the weapon unless, in the case of a transfer, you obviously have someone who has transferred that weapon. But unlawful possession, we have done nothing here to prevent the flow of weapons to juveniles and we make a point of increasing the penalty for possessing a stolen handgun, but we do nothing to prevent the flow of handguns in the community by imposing duties on lawful gun owners to report their... [LB63]

SENATOR CARLSON: Time. [LB63]

SENATOR COUNCIL: ...weapons when they're stolen. [LB63]

SENATOR CARLSON: Thank you, Senator Council and Senator Pirsch. Those wishing to speak: Senators Ashford, Friend, Langemeier, and Lautenbaugh. Senator Ashford, you are recognized. [LB63]

SENATOR ASHFORD: Thank you, Mr. President. I am not going to support this amendment. The idea of getting the word out to potential offenders is critical to the success of this idea, but it's not up to the state to do this, this act. It is up to each individual community that develops its own plan for the intervention or prevention of violence. There's no need to saddle the state with this obligation. I think the idea that Dan Welch from the city council has for getting the word out is a good idea, and I would be happy to talk to Senator Pirsch about how that might work on the local level. But this should be a local responsibility, not a state responsibility. And the cost of doing it, though it may be uncertain at this point, could be very expensive if we're talking about billboards and TV ads and all that sort of thing. So though the idea of getting the message out is a good one and Councilman Welch is correct in thinking about that for the Omaha situation, I think it really would be up to the city of Omaha to decide how best to get the message out. So I understand the spirit in which this was presented, but I don't...I don't think it fits into the Office of Violence Prevention as a direct financial obligation. Thank you. Mr. President, I would give the rest of my time to Senator Friend, if he... [LB63]

SENATOR CARLSON: Thank you, Senator Ashford. Senator Friend, you have 3 minutes. [LB63]

SENATOR FRIEND: Thank you, Senator Ashford. And thank you, Mr. President, members of the Legislature. The last amendment, I'm glad we got, you know, I'm glad Senator Pirsch got an opportunity to stand up and talk about AM637, talk about the trafficking, talk about what defacing a firearm could actually end up...what kind of problems that causes in our communities. Now we're on to AM638 and it's a lot different subject matter. And I would, while I concur with Senator Ashford, I can't support this

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amendment. I understand why Senator Pirsch is bringing it. I think in a way it makes a lot of sense. The problem, the way I see it, is there's an enforcement aspect that the Legislature has to look at, and then there's a fairness aspect. I don't know how you can force...we don't know how much money the Office of Violence...for sure, how much the Office of Violence Prevention and public awareness shall actually have on a consistent basis from fiscal year to...fiscal biennium to fiscal biennium. And then we're putting constraints on them and tell them you have to spend the money this specific way. But if we don't like the way they spend their money, two years from now we just don't give them any money, and we as the Legislature make that decision. We can do that with all of the other buckets of appropriation that we have when we go into a fiscal year. So I'm not sure I've heard a really good reason yet, and I know Senator Pirsch has only had the opportunity to open on it, why we should do it. I mean if you want to go back and question as to why we would have the Office of Violence Prevention, let's have that discussion and let's have it on AM212. But you have it and then you tell them they have to spend their money a certain way. Look, I almost guarantee... [LB63]

SENATOR CARLSON: One minute. [LB63]

SENATOR FRIEND: ...they're going to spend their money on trying to promote the specific deterrence. Here's the analogy or here's the scenario. Kid, person, whoever, you go out and do this, look what's going to happen to you. And they're going to advertise that idea and we're naive to think that they won't. It's a tough love type of environment in those situations and that's what they're going to do. So I'm not saying the amendment is trivial. It's not. I think it's significant. But I don't think it's necessary. I think I'll just leave it at that. Thank you, Mr. President. [LB63]

SENATOR CARLSON: Thank you, Senator Friend. Senator Friend, your light is on again, and you waive. Senator Langemeier, you are recognized to speak. [LB63]

SENATOR LANGEMEIER: Mr. President and members of the body, I rise in opposition to AM638 for a number of reasons. Number one, I want to commend Senator Pirsch for his thoughtfulness and his meticulously going through this bill and trying to cover all aspects. I appreciate his willingness to do that. My question is, is as we set state policy we set statutes. We don't particularly set advertising campaigns for agencies that we have the power to set rules and regs for. So I rise in opposition to. In my opinion, we are...this amendment is setting an advertising campaign. I think we need to let these particular agencies, if they go on this type of an advertising campaign, they'll decide whether they're going to do posters, billboards, brochures, or whatnot. So I rise in opposition to that. Our effect on these type of agencies, as far as advertising is, is their budgets. We set those budgets. We can look through their budgets and we can assist them in an advertising campaign financially in their budgets, or we can take it away to set their advertising campaigns. So I rise in opposition to putting in state statute an advertising campaign and, with that, I would ask that you don't support AM638. Thank

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you, Mr. President. [LB63]

SENATOR CARLSON: Thank you, Senator Langemeier. Senator Pirsch, you're recognized. [LB63]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. And I appreciate the dialogue here today and I agree. We do not want this Office of Violence Prevention to be a pricey entity. As a matter of fact, you know, to the extent that it is expending resources, I think you're right, has to be highly scrutinized. And so that was not the intention to allocate resources here. I can see by the particular language that I used that that was misinterpreted or lost and so I intend to right now introduce a piece of...an amendment that will make absolutely clear that this will not have a penny one cost to it. And I do appreciate bringing to light those statements here that brought to light the fact that if you could possibly be misinterpreted as requiring expenditures or allowing for or encouraging expenditures, and again that's not my intention here. I believe this must be done. We do not want this Office of Violence Prevention to be, you know, a costly expenditure. And so towards that end, I am...will be filing this amendment to my amendment. What it will do is strike the word "shall." Right now the amendment as it currently stands says, "The Office of Violence Prevention shall conduct public awareness activities." This will make it clear. It will say the Office of Violence Prevention may conduct public awareness activities. Secondly and more importantly, where it says under...it says currently "designed to publicize the increased penalties under this legislative bill for violent criminal offenses. The public awareness activities may include, but need not be limited to, public service announcements, information kits, brochures, posters, booklets, billboards, and radio and television promotions." I'm going to strike that language and, instead, the end effect of this amendment then, if you accept my amendment to my amendment, would say under this legislative bill for violent criminal offenses, in a manner that does not require any expenditures of funds. And so that is my intention, to...if this amendment is brought forward, to file that amendment and to have that language changed then. So it will be done in a manner that does not, by explicitly a statement of law, does not require any expenditures of funds to make this public...to make the public educated. So I appreciate the comments. I think it's helped to make the amendment tighter so that it's not subject to misinterpretation that we are intending to spend any funds here; that again the underlying precept is that we just want to express the underlying importance of educating so as to, at the same time that we are imposing tougher sentences, that we are also educating those who may tend to break these gun violence laws, that they're aware that they will be going away for a long time. So I will be filing that amendment at the appropriate time to take away any of these stated concerns. And so on that basis, now with the underlying understanding of everyone that this will not cost even a penny, I would ask for you to support the amendment. [LB63]

SENATOR CARLSON: Thank you, Senator Pirsch. Senator Lautenbaugh, you are

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recognized to speak. [LB63]

SENATOR LAUTENBAUGH: I'd call the question. [LB63]

SENATOR CARLSON: The question has been called. Do I see five hands? I do. Question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB63]

CLERK: 26 ayes, 0 nays, Mr. President, to cease debate. [LB63]

SENATOR CARLSON: Debate does cease. Senator Pirsch, you're recognized to close. [LB63]

SENATOR PIRSCH: Thank you. I'll call the question first. I'm sorry. I will ask for a call of the house, rather, at this time. [LB63]

SENATOR CARLSON: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB63]

CLERK: 27 ayes, 0 nays, Mr. President, to place the house under call. [LB63]

SENATOR CARLSON: 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 Pirsch, the clock is running. Would you like to begin your close? [LB63]

SENATOR PIRSCH: I would. Thank you. Mr. President, members of the body, this amendment to the underlying Judiciary Committee amendment simply was designed to relate the fact that at the same time tougher penalties are imposed through the underlying Judiciary amendment, that we need to also make sure that an important component of that is educating those who would...who are not aware currently that these tougher penalties will go into effect and who are committing or would tend to commit gun violence. And so we want to deter people. That's the underlying rationale of this bill, I'm sorry, this amendment to it. Now the way the amendment was drawn up, as others have said that they are...would feel more, I think, comfortable, that they brought up the finance part of it, that they want to make sure that this doesn't require some sort of an expenditure of revenues of Office of Violence Prevention, monies towards that education, and I concur. That wasn't the intent. And so I cannot, at this point in time, amend my amendment but I have drawn up an amendment and I will, you know, we have a number of gentlemen, I guess, agreements and I'm on, willing to go publicly right now and indicate that I will be offering this amendment. Procedurally, I can't offer an amendment to...amendment to an amendment, so this will take place at the appropriate

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time and it will ensure, this amendment that I've drawn up and have just read, it will ensure that all of these education activities designed to educate the public about the tougher penalties, designed to deter those who may commit gun crimes from committing those crimes, that all this will go forward in a manner that does not require any expenditures of funds, and that's the explicit way that I've drawn up my amendment. So we can, with all certainty, rest assured that there will not be penny one expended required by the statute. And I appreciate the input with respect to this by committee member...by, I'm sorry, those who have spoken here today. They don't oppose the underlying concept; it was just the financial requirement. And so I, you know, pledge right now publicly that that amendment will come that will make sure that it will occur in a manner that does not require any expenditures of funds. So that having resolved that issue, I would ask you to, at this point in time, support amendment, my amendment here, which is designed to...just to say that you can educate the public about these tougher crime penalties so that we can deter those who would normally commit the gun crime violations. And again, I will be coming forward, and I publicly pledge that, with this amendment that indicates... [LB63]

SENATOR CARLSON: One minute. [LB63]

SENATOR PIRSCH: ...that it will not require any expenditures of funds so that the concerns that individuals had that we're kind of mandating expenditures is alleviated. And so with that, I would ask for your support of my amendment. Thank you. [LB63]

SENATOR CARLSON: Thank you, Senator Pirsch. The house is under call. Senator Pirsch, please record your presence. Senator Christensen, the house is under call. Please report to the Chamber. [LB63]

SENATOR PIRSCH: Mr. President, we can proceed. [LB63]

SENATOR CARLSON: Okay. You have heard the closing on AM638. The question is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to vote? Record, Mr. Clerk. [LB63]

CLERK: 14 ayes, 25 nays, Mr. President, on the amendment. [LB63]

SENATOR CARLSON: The amendment is not adopted. We raise the call. [LB63]

CLERK: Mr. President, the next amendment I have to the committee amendment, Senator Lathrop, AM675. (Legislative Journal page 698.) [LB63]

SENATOR CARLSON: Senator Lathrop, you are recognized to open on your amendment. [LB63]

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SENATOR LATHROP: Thank you, Mr. President and colleagues. I have an amendment to this bill which is a change to the amendment that was worked out with the Attorney General's Office and Senator Friend, I think, also agrees that this is necessary. And maybe I'm doing something that you caught when you did your reading of this amendment. In Section 14, as the amendment is drafted, it would be a felony for someone who has been convicted of a misdemeanor domestic violence order to be in possession of a knife. So if a guy has an order that says stay away from your wife during the middle of a divorce and he goes over there and picks the kids up and he screams at her sufficient, causes a disturbance or otherwise violates the order, he's guilty of violating a domestic relations order, a misdemeanor domestic relations violation. He then could literally, if we left the bill...or the amendment alone, he literally couldn't be in possession of a knife. That was not the intent of the Attorney General when they put this bill together, it was not the intent of Senator Friend when he offered LB63, and it is something that we recognized after the amendment was put together. The amendment that I have offered would then sort that out so that now you can't be a felon in possession of a firearm, brass knuckles or a knife, right, but you...but in order for the person that's been convicted of a misdemeanor domestic relations order, that person can't be in possession of a firearm or the brass or steel knuckles. So I think if you had looked at it carefully, you would have recognized that somebody with a misdemeanor violation could literally not go into a restaurant, couldn't have knives in the house. Nobody intended that. What we did say is you can't have a knife, a gun or the brass knuckles while you're violating a domestic relations order and that makes sense. So it's an agreement for an amendment to the amendment that has been worked out with the Attorney General's Office, and for that I'm appreciative. The first thing that the amendment also does is, on line 6, pardon me, page 6, line 22, we changed "firearm." That was inadvertently used in the place of "handgun," so that's also kind of a cleanup piece. As I said, these have been agreed to and really advanced by the Attorney General's Office. They're common sense and I would appreciate your support of AM675. Thank you. [LB63]

SENATOR CARLSON: Thank you, Senator Lathrop. Senator Friend, you are recognized to speak. [LB63]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. Sorry about that. Senator Lathrop did a good job of explaining this amendment. This, in the conversation that I had with Senator Price earlier, is what I was talking about, if some of you remember this discussion where I said this particular language on page 13, I believed that it was going to be amended. This is the amendment. Now it didn't change the seven years that Senator Price was referring to, but I also understand that there's been discussion off the record in regard to that particular time frame. What I wanted to say about this amendment is that I think it's necessary. I think that it was an oversight and I think that it is something that should be adopted and will help us move forward. I think it also adds a lot of clarification, especially on page 6, line 22, where you strike

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"firearm" and insert "handgun." With that, I would respectfully ask that we adopt AM675 and eventually adopt AM212. Thank you, Mr. President. [LB63]

SENATOR CARLSON: Thank you, Senator Friend. There are no other lights. Senator Lathrop, you're recognized to close. [LB63]

SENATOR LATHROP: Thank you, Mr. President, colleagues. Very simple amendment, I would ask you to adopt it. I assume that there's nobody wanting to talk because it seems so simple and straightforward. I'm going to use this occasion, though, to express my appreciation for the work of Senator Ashford over the summer on youth violence and gang violence issues. He held a hearing, the Judiciary Committee did, and it was put together entirely by Senator Ashford over the summer to listen to people come in and talk about youth violence in Omaha and to talk about CeaseFire and some of the initiatives that we see ultimately finding their way into this bill, and I can tell you, when you listen to some of the people that we've heard at these hearings, it is very impressive what's going on in north Omaha and in south Omaha, for that matter. Some of these people who are taking youth that are at risk, some of these people and organizations that are taking people that are otherwise headed for gang activity and intercepting them, spending a little bit of money, making sure they have jobs, making sure they're occupied and on their way to an education is impressive. I am...I've been remiss in not getting to the mike earlier than this to express my appreciation for Senator Ashford's leadership. And I can tell you, folks, if we had more money to work with, I'd spend it all on violence prevention because what is clear is for a little bit of money we can avoid and we can intercept these young people and get them into organizations and programs which will direct them. What was clear in the hearings that we've had over the summer and before the Judiciary Committee is these gangs fill a void. They fill a void that most of us have family for. Our families, if we come from an intact family, there is love, support; there are people there that pay attention to what you're doing; they're attentive to what you're doing in school. And these youth that get involved in gang activities don't have that support and the gang fills the void and these organizations, Boys and Girls Club, to name just one, they fill the void and help take these children and young people to a place where they're trying to succeed and accomplish good and avoid a life of crime. So it's money well-spent, in my judgment, and I'm fully supportive of the bill. Thank you. [LB63]

SENATOR ROBERT PRESIDING []

SENATOR ROBERT: Thank you, Senator Lathrop. Members, you have heard the closing to AM675. The question before the body is, shall AM675 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB63]

CLERK: 40 ayes, 0 nays, Mr. President, on adoption of Senator Lathrop's amendment.

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[LB63]

SENATOR ROBERT: AM675 is adopted. [LB63]

CLERK: I have nothing further to the committee amendments at this time, Mr. President. [LB63]

SENATOR ROBERT: Returning to discussion to AM212 to LB63, are there any members wishing to speak? Seeing none, Senator Ashford, you're recognized to close on AM212. [LB63]

SENATOR ASHFORD: Thank you, Mr. President. Thank you, all, for spending the morning on this issue. In its essence, what we are attempting to do in LB63, Senator Friend and myself, the Judiciary Committee and others, is to bring together a convergence of prevention and enforcement. Yes, no question about it, these are tougher penalties. They are tougher penalties for a reason. The kinds of crimes and offenses that are being committed throughout our state, the violence is very, very, very difficult. It's difficult to understand. It's difficult to see why it is happening the way it is. And because it's so difficult to understand and because some of this violence is so out of the box and so nontraditional, it's necessary, in my view, that we also spend our efforts in our communities and across our state to deal with prevention and intervention. We have so many qualified people in the law enforcement area. For example, it's been mentioned here before, and I'm not picking on north Omaha but the group in north Omaha that Brenda Council's brother is involved in is making significant strides. We need to get behind this, in my view, we need to put state policy behind it and I am convinced if we do this and when we do this that we will get results, because results are already occurring. With that, Mr. President, I would urge the adoption of the amendment and the advancement of LB63. [LB63]

SENATOR ROBERT: Thank you, Senator Ashford. Members, you have heard the closing to AM212 to LB63. The question before the body is, shall AM212 be adopted? All those in favor vote yea; opposed, vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB63]

CLERK: 45 ayes, 1 nay, Mr. President, on adoption of committee amendments. [LB63]

SENATOR ROBERT: AM212 is adopted. [LB63]

CLERK: I have nothing further to the bill at this time, Mr. President. [LB63]

SENATOR ROBERT: Returning to discussion on LB63, are there any members wishing to speak? Seeing none, Senator Friend, you are recognized to close on LB63. [LB63]

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SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. This, as they say, will be brief. This Legislature, so far this year, has been somewhat difficult for me and it's been difficult because...not just because of bills like this but because it's the way bills like this and all the other bills have been working through the process. Today was very dysfunctional for me and it's the nature of the bill. I mean there's 44 pages of Criminal Code here. And I don't sit on Judiciary Committee. I did at one time in my tenure. I was there for two years. Was easier for me to track all the changes but, again, it was an amalgamation of four different ideas and four different bills in here, and I've got to tell you, I'll piggyback on what Senator Lathrop just said, Senator Ashford has been working on this for over a year. The Attorney General's Office has been working on this for two and a half years. So the conversation that I've had this morning with everybody has been disjointed because I feel like I've been outside looking in. But I understand two things and I want to leave you with this as we move forward in this process. I understand one thing and that's when we get to Select File we all have ideas out here and we all think Criminal Code should change in a certain way. I don't think Senator Ashford or I or the Judiciary Committee has ever tried to thwart any of that and we won't now, but it's got to be a good idea, as far as we're concerned, too, or we'll go in a different direction. Second thing I understand is that when I'm asked questions about it or I'm trying to go down a road, if you were asking me questions about revenue or something that I really felt like is almost a current event for me, I'll take off like a rocket I think. Here I've got to go do a little research; be happy to do that. But part of what I know, the second piece of that, part of what I know is that there's no doubt in my mind that it's specific deterrence. We're being proactive but we're providing specific deterrence. We are telling people that are seeking to do harm to others, we will not tolerate it anymore. It's not just if you appear in a federal court; it's here too. That's what I understand. That's what my constituents understand. I've said this about four times since I've been here and I think it's one of the most profound things I ever heard Kermit Brashear say. I'm not going to imitate him, all right? I can do that. I'll do that later. We have to distinguish between the people that we're afraid of and the people we're just mad at. This bill does that. It's clear distinction. The people in our districts are afraid of people who are willing to do violence to others, not meth heads, not people who we're mad at. I think we all know who they are. That's what I know and that's why I agreed to carry this bill. And I knew that if I had Senator Ashford and I knew that if I had the Judiciary Committee and I knew that if I had the Attorney General's Office and the county attorneys in this state behind the effort that I would get the help to answer all these questions that I might not be able to deal with. [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR FRIEND: I can deal with any question. Sometimes it just takes some time. What I'm telling you, though, finally is this: There are big hearts and there are big minds, strong minds behind legislation like this and it was not done in a haphazard manner. We don't have anybody out here running for mayor. This isn't political muscle flexing. We're

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distinguishing the people, between the people we're afraid of and the people we're mad at. Members of the Legislature, thanks for the morning, thanks for the time, the morning of interest, thanks for the time, thanks for the participation. I would ask for the advancement of LB63. Thank you, Mr. President. [LB63]

SENATOR ROBERT: Thank you, Senator Friend. Members, you have heard the closing to LB63. The question is, shall LB63 be advanced to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB63]

CLERK: 44 ayes, 1 nay, Mr. President, on the advancement of LB63. [LB63]

SENATOR ROBERT: LB63 does advance. Next item on the agenda, Mr. Clerk. [LB63]

CLERK: Mr. President, LB121 by Senator Wightman. (Read title.) Bill was introduced on January 9 of this year, at that time referred to the Revenue Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM530, Legislative Journal page 610.) [LB121]

SENATOR ROBERT: Senator Wightman, you are recognized to open on LB121. [LB121]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. LB121 provides for a phaseout of the state Department of Revenue's assumption of the county assessment function, a program which has been in effect since 1969. A brief history of the law is necessary in order to understand why it is important to repeal this law. Current law allowing state assumption of county assessment duties or functions was enacted in 1969, some 40 years ago; however, no county requested state assumption until after the passage of LB269 in 1997 that allowed for employee protections. The following year, in 1998, five counties requested and received state acceptance. Those counties were Dakota, Dodge, Garfield, Harlan, and Sherman. Keith and Saunders County requested and were accepted by the state in 1999, and the following year, 2000, two more counties, Greeley and Hitchcock, requested and were accepted. They are the nine counties that are presently served by the state of Nebraska as far as performing the assessment duties, at state expense, in those counties. Since 2000, several counties--Loup, Cass, Kearney, Scotts Bluff, and Furnas Counties--requested state acceptance but all but Loup and Furnas Counties were denied state acceptance. And although Loup County was accepted in 2005 and Furnas County was accepted a year later in 2006, no additional state funds were appropriated to conduct the assessment function for either county. So there's been a lot of discussion with other counties since that date, including Dodge County, as I understand it, although I don't think they ever filed a formal request, and all of those counties have been told that there was not money available and, as a result, the state has not assumed the assessor's duties in

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those counties. So as the state reassessed its ability to fully fund this program, the remaining 84 counties continue to provide their own assessment functions at their own expense. The state of Nebraska currently funds the salary and benefits of approximately 42 state employees for the nine counties, a budget expense totaling about \$2.46 million annually. The reason I am proposing LB121, and I might say that I have adopted this as my priority bill as indicated by the agenda, number one, to restore equity between all county governments. I suggest it is unfair for the state to pay for the assessment function for 9 counties and not pay the cost for the other 84 counties, and I remind you again that that's about \$2,460,000 annually. Two, to return the assessment function to the local county level, where it belongs, in my opinion, particularly since 84 have local control. Three, save the state of Nebraska \$2.46 million annually; and because, four, the state is unable to offer or sustain funding for this program for all counties in Nebraska now or in the future. I suggest that it should be either all or nothing. And I might tell you a little bit about what my own...I don't have this figured from anybody else but just looking at the cost in the 9 counties, would be if this function were assumed for all 93 counties it appears that it would be about \$30 million annually. I know that the \$2.46 million for the nine counties might not indicate that, but by the time you take over the three most populous counties, being Douglas, Lancaster, and...I'm trying to think of the third county right now but, at any rate, those three counties would have a population of half the population of the state of Nebraska. So it would be...it would be very difficult to do. Because LB121 places a financial burden on the nine counties, LB121 provides...I say places a financial burden. It would be creating a financial burden because they have not budgeted any of these funds since they were accepted in about 2000. So it provides for a phaseout which is right now in the bill three years; that they would reimburse the state one-third of the expense as computed by the state the first year in 2010, actually 2010-2011 fiscal year, and then they would reimburse the state two-thirds the next year, and the full cost in the third year. The counties also have the option to reassume the assessment function early, starting in '09-10, with mandatory assumption starting in fiscal year 2011-2012. LB121 provides that employees moving from state employee status to county employee status with benefit transfers and protections. Now the bill does not provide that they would hire all of the same people. They would initially be hired but if the counties see that they do not need that number of people to perform the function or, in their opinion, they do not...those employees would not be protected for a long period of time. That would be the county's decision. The bill also provides for the appointment of county assessors until the next election so that we could be in the middle of a year. We are going to have an amendment proposed by Senator Giese, which I will not be objecting to, that would propose that this could be done by a special election. A budget lid and levy limit exceptions are both provided for the counties which are required to assume the assessment function. If the county is bumping up against its lid limit, I think we do have to provide the counties with some protection with regard to that lid limit while they are doing the assumptions over the three- or four-year period. The bill also allows noncontiguous counties to join together in a partnership to administer the property assessment function through an interlocal

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agreement. That's true even though they are not contiguous. This power currently exists in law but is limited to contiguous counties. Counties must move to partner with other counties to operate more efficiently and effectively. We have a committee amendment, AM530, which allows for an increase in the county budget lid for restricted funds for the counties affected. This allows any increase in the budget required for the reassumption to be counted in its base budget for future years and this amendment addresses any impact after fiscal year '12, '11-12, when the temporary budget levy limit expires. I do urge your support in favor of the advancement of LB121 to Select File with the Judiciary (sic) amendment, which will be explained by the Chair of...Senator Cornett, I think, if she's here. We will also discuss a couple of amendments. I mentioned Senator Giese's amendment that would provide that a new county assessor could be elected by a special election. I think...I know there will also be a proposal/amendment by Senator Janssen that would extend from three to four years, and I'm not in opposition to that. We are trying to create a soft landing for those counties who have to reassume the duties and to try to help them with their budget problem. I would like to have seen it three years, but I understand the problems and, again, will not object at all to extend it to four years. So with that, I will relinquish the microphone and Senator Cornett or whoever desires to can explain the committee amendment. Thank you. [LB121]

SENATOR ROBERT: Thank you, Senator Wightman. Members, you have heard the opening to LB121. Mr. Clerk. [LB121]

CLERK: Mr. President, I have Revenue Committee amendments, AM530. [LB121]

SENATOR ROBERT: Senator Cornett, as Chair of the Revenue Committee, you're recognized to open on AM530. [LB121]

SENATOR CORNETT: Yes, the amendment to LB121 was brought...recommended by the State Auditor's Office and Senator Wightman. It is a budget lid override exception for taking over the costs of running the assessor's office and it is written for a three-year phase-in period. I'd urge the body to support the committee amendment. It will ease the burden on the counties. Thank you very much. [LB121]

SENATOR ROBERT: Thank you, Senator Cornett. Members, you have heard the opening to AM530, the Revenue Committee amendment to LB121. Those wishing to speak: Senators Stuthman, Hansen, Janssen, and Sullivan. Senator Stuthman, you are recognized. [LB121]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I am supportive of this bill but I want to give you a little bit of the history as to, you know, when this all took place and the issues that surfaced when counties were asked to, you know, relieve themselves of the assessor's duty and turn it all over to the state. I served on the county board at that time. What had taken place was the state said that they

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wanted to, you know, you know, assume those duties of the county assessor and I think it was the intent at that time that every county, you know, was to be turned over to the state of Nebraska and that the State Tax Commissioner was going to be in control of all of the assessor's duties over the state of Nebraska, and I respect that. It was a very aggressive Tax Commissioner at that time and wanted to assume all of those duties. We discussed it, you know, at length in our county as to whether we should participate in that or not and we felt that, no, it was not the best thing in our...best in our interest because we felt it should be on the local control of the county board, the county assessor, because those individuals knew what was taking place and the values of their property in their county and their area. When this took place in several of these counties, you know, the Tax Commissioner, you know, they hired county reviewers, bought new pickups for these reviewers, county reviewers, to go out and go to these counties that were turned over to the state of Nebraska. Also what had happened was the fact that we had our county appraisers, we had county appraisers in my county, you know, that when this took effect the appraisers could get paid more by the state if they went to work for a county that was turned over for the state. And this did happen. This did happen, you know. In some counties, you know, they could only pay their reviewers and appraisers only so many dollars and the state paid more, so it did take some of those people away from the counties. That's what it did. The biggest issue that I have is the counties that turned over their duties to the state of Nebraska and the state of Nebraska assumed the duty of the assessing part of the county and assumed the dollar amount to do this job, did the counties, you know, lower their tax asking amount in accordance to that? You know, did the counties, you know, when that...when that job was relieved, the salary of the assessor became a state employee, other people in the assessor's office also became state employees, did the counties lower their tax asking amount to justify for that or did the counties utilize that tax asking amount on some other projects, what were in need and were able to get that from the taxpayer at that present time? So did the taxpayers really benefit from the state taking over that? I'm trying to get some information on that and I need to do some more research on that. But what is happening right now, in my opinion what is taking place, you know the state is going to turn that back over to the counties and we're giving them a method, you know, as to how they can raise their property tax and their lid limit, their levying authority, to coincide with the amount that it's going to take to hire these people back and to pay the wages of those individuals in the county assessor's office. Is this going to end up a situation where the taxpayers in those counties... [LB121]

SENATOR ROBERT: One minute. [LB121]

SENATOR STUTHMAN: ...that, you know, had turned it over and, you know, thought, you know, that should be a duty of the state of Nebraska, you know, are the taxpayers in those counties, are they going to be ending up paying more on personal property tax just to get something back to their county? That is a concern of mine because in the bill there is a method on how they're going to allow counties to increase their taxing so that

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the taxpayers have to pay more. I think that's a situation that we have to really take a serious look at. In some of the information that I have it states...it states that they wanted to return the function to the local county level where it belongs. [LB121]

SENATOR ROBERT: Time. [LB121]

SENATOR STUTHMAN: Thank you, Mr. President. [LB121]

SENATOR ROBERT: Thank you, Senator Stuthman. (Visitors introduced.) Returning to discussion, those wishing to speak: Senators Hansen and Janssen. Senator Hansen, you're recognized. [LB121]

SENATOR HANSEN: Thank you, Mr. President. If Senator Wightman would yield, I'd have some questions. [LB121]

SENATOR ROBERT: Senator Wightman, will you yield to a question? [LB121]

SENATOR WIGHTMAN: Yes, I will. [LB121]

SENATOR HANSEN: Thank you, Senator Wightman. I know we've talked off the mike about this bill and I was listening to Senator Stuthman tell some of the history about this. At the time this was brought up originally, were all counties in the state eligible for this switchover to go to the state assessor's office? [LB121]

SENATOR WIGHTMAN: I think in the initial year any of them could make application. Whether or not they would have been accepted I can't tell you because I think they remained eligible but, as I recited the history, as time went on the money wasn't there or at least the Legislature felt or the Department of Revenue felt that the money wasn't there. Actually, this was a separate agency at one time that just, I think a year or two years ago, was merged into the Department of Revenue. It was considered a separate agency called Property Assessment and Taxation, I believe, I don't remember the exact name of that, and at the Governor's initiative I think a year ago, and it might have been two years ago, that was merged into the Department of Revenue. Catherine Lang had been the...had been the administrator of that particular division. [LB121]

SENATOR HANSEN: Okay. There's nine counties now. Have some dropped out? You said that Loup and...was it Loup and Valley or Loup and Wheeler had tried to do this. They tried to do it but they couldn't get the funding. There was no A bill or something attached with the legislation. [LB121]

SENATOR WIGHTMAN: Right. They actually accepted Loup and...let me find the counties again, Loup and one other county. [LB121]

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SENATOR HANSEN: But no funding came from the state. That was the... [LB121]

SENATOR WIGHTMAN: But no funding came. The A bill was apparently not approved. It was Loup and Furnas County and that... [LB121]

SENATOR HANSEN: Have any of these nine counties done anything illegal in the last several years since this was started? [LB121]

SENATOR WIGHTMAN: Have they done anything illegal? [LB121]

SENATOR HANSEN: Yeah, to get in trouble with the Property Tax Administrator and now the Department of Revenue? [LB121]

SENATOR WIGHTMAN: Not that I'm aware of, Senator Hansen. [LB121]

SENATOR HANSEN: Have any employees been let go because they weren't doing what the state said they needed to do? [LB121]

SENATOR WIGHTMAN: Well, of course the employees were state employees, so they could have been terminated by the state and I can't give you the history of that, but I'm not aware of any but that's certainly a possibility. [LB121]

SENATOR HANSEN: When the state took over the assessor's position in these counties, is it true that the county employees that were there prior to that remained at the courthouses? [LB121]

SENATOR WIGHTMAN: That's correct. That was one of the provisions of LB269 in 1997 that allowed for employee protections. I don't know the exact history of that but they did retain their jobs at that time. [LB121]

SENATOR HANSEN: I know when Keith County went to this process, I think the people that were there prior to this are still there, most of them anyway. I know they come and go but... [LB121]

SENATOR WIGHTMAN: And I believe that to be true. [LB121]

SENATOR HANSEN: Thank you, Senator Wightman. I just rise in opposition to this bill and I think the reason is that these counties didn't do anything wrong. They were asked if they wanted state assessment. They said, yes, they thought it would help their county budget, and now the state wants to phase this project out and to save money. And Senator Wightman I know is on the Appropriations Committee, too, and that's our duty, to save money, but I don't think we need to do this at the expense of the counties that have done nothing wrong prior to this. Thank you, Mr. President. [LB121]

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SENATOR ROBERT: Thank you, Senator Hansen. Senator Janssen, you are next and recognized. [LB121]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. I'd like to actually talk to Senator Hansen about maybe nothing illegal in Dodge County but the way my property was assessed last year certainly made me feel that way, so I protested that. But the county I'm in, Dodge County, is the entire county that I represent. That is District 15. If you look at the handout that Senator Wightman put out, that is the biggest portion of, I guess, the budget part of that. I think it comes close to about a half a million dollars a year that the state pays. So when I rise, I rise not in opposition to LB121. I do have an amendment that I'm coming out with and it may surprise people that I am not opposed to this bill, but for me it comes back to local control and this is a local control issue. And many of your counties may not have gotten involved in it because of a local control issue and I believe once we get that back in the county, we'll be able to do it for less money than what it's being done right now in Dodge County, and ultimately that will save taxpayer money. Now maybe not ultimately in my county, but I'm looking at a broader scope here than just my county. I represent the county. Obviously, I'm also a Nebraska legislator and I think overall it comes down to an equity issue at the end of the day. And I do appreciate Senator Wightman working with me and the other senators affected by this and their counties to soften that blow. That is certainly something fair. To those people that have served on county boards before, you know when you're putting budgets together, or city councils or state legislators that when something like this comes up, any way you can soften the blow, and I think the amendment I'll put forward will do that. Senator Giese has an amendment as well. And Senator Sullivan has asked some great questions, so there are some questions to be answered on this when you assume that duty. Senator Stuthman brought up some great questions as well, and I have questions about equipment that may have been in the assessor's office that is moved back now and how do we move that back and how will this all take place. But I think with the extension in the time that my amendment will approve, which I'll open on probably tomorrow, that will allow that to happen. So thank you for the time and I will relinquish the remainder of my time to Senator Wightman, if he so chooses. [LB121]

SENATOR ROBERT: Senator Wightman, 2:36. [LB121]

SENATOR WIGHTMAN: Thank you, Mr. President. Thank you, Senator Janssen. I would like to answer a few of the questions raised by Senator Hansen. I agree that there may be some hardship on the county now. However, when you think of the fact that these counties have been provided a function by the state of Nebraska that each of the other 84 counties have had to pay for, for the last eight to ten years, depending on when they came under, certainly those counties have not been harmed by the fact that they gave up this function to the state of Nebraska. They may have been harmed as

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Senator Janssen suggests by maybe having higher assessments or losing local control. From that standpoint, we're restoring their position to them. But to me, this basically...the whole idea is made up of two items. Number one, it's an equity issue. It seems to me very inequitable that 84 counties pay all of these expenses on their own, at their own expense at their taxpayers' dollars, while all of those constituents of those 84 counties also pay for all of the expenses for the 9 counties that are getting the function provided at state expense, tax free to them as far as their property tax dollars. So... [LB121]

SENATOR ROBERT: One minute. [LB121]

SENATOR WIGHTMAN: ...everybody's income tax, sales tax are going to pay for those nine counties whereas no property tax is being expended in those counties. So I suggest they have had an advantage for eight to ten years. Even though now they may have a little bit of a detriment in reassuming this function and getting there within their tax lids and levy lids, it seems to me that equity requires that we take this step. And we can wait 20 years and do it again or we can do it now when we should be doing it. Thank you, Mr. President. [LB121]

SENATOR ROBERT: Thank you, Senator Wightman and Senator Janssen. Mr. Clerk, items for the record? [LB121]

CLERK: Mr. President, a new resolution, LR49, by Senator Wightman; that will be laid over. Priority bill designations: Senator Fisher, as Chair of Transportation, LB202 as one of the committee priorities; Retirement Systems, Senator Pankonin, LB426; Senator Gay, his personal priority, LB603. Senator Gay, an amendment to LB260 to be printed. An additional priority bill: Senator Dierks, LB463. Cancellation of hearing notice from Business and Labor, signed by Senator Lathrop. New A bill. (Read LB290A by title for the first time.) Senator Janssen, an amendment to LB121 to be printed. Motions: Senator Ashford would move to recommit LB669 to the Judiciary Committee, and Senator Price would like to withdraw LR10; those will both be laid over. Senator Howard would like to add her name to LB517; Senator Giese to LB646. (Legislative Journal pages 698-701.) [LR49 LB202 LB426 LB603 LB260 LB463 LB290A LB121 LB669 LR10 LB517 LB646]

And, Mr. President, Senator Fulton would move to adjourn until Thursday morning, March 12, at 9:00 a.m. []

SENATOR ROBERT: Members, you've heard the motion to adjourn until Thursday morning, March 12, at 9:00 a.m. All those in favor signify by saying aye. Opposed, nay. The ayes have it. We are adjourned. []