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Floor Debate  
May 12, 2009

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SENATOR ROBERT PRESIDING []

SENATOR ROBERT: Good morning, ladies and gentlemen. Welcome to the Nebraska Legislature. I call to order the seventy-seventh day of the One Hundred First Legislature, First Session. Our chaplain for today is Senator Hansen. Please rise. []

SENATOR HANSEN: Good morning. This prayer today is dedicated to all the committee Chairs of the One Hundred First Legislature, First Session. (Prayer offered.) []

SENATOR ROBERT: Thank you. I call to order the seventy-seventh 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: Thank you. Are there any corrections for the Journal? []

CLERK: I have no corrections. []

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

CLERK: Enrollment and Review reports LB97A, LB402, LB463, and LB532 as correctly engrossed. That's all that I have, Mr. President. (Legislative Journal page 1423.) [LB97A LB402 LB463 LB532]

SENATOR ROBERT: Thank you. We will now proceed to the first item on the agenda: Select File, 2009 senator priority bills. []

CLERK: Mr. President, LB63. Senator Nordquist, I have Enrollment and Review amendments, first of all. (ER8031, Legislative Journal page 732.) [LB63]

SENATOR ROBERT: Senator Nordquist for a motion. [LB63]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB63. [LB63]

SENATOR ROBERT: Members, you heard the motion to adopt the E&R amendments. All those in favor signify by saying aye. Opposed, nay. The amendments are adopted.

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[LB63]

CLERK: Mr. President, next amendment, Senator Coash, AM775, but I have a note you want to withdraw. Senator Coash,... [LB63]

SENATOR ROBERT: Senator Coash. [LB63]

CLERK: ...did you want to withdraw AM775? [LB63]

SENATOR COASH: The first one, yes. [LB63]

SENATOR ROBERT: AM775 is withdrawn. [LB63]

CLERK: Mr. President, the next amendment I have, Senator Coash, AM995. (Legislative Journal page 969.) [LB63]

SENATOR ROBERT: Senator Coash, you are recognized to open on AM995. [LB63]

SENATOR COASH: Thank you, Mr. President, members of the body. AM995 is an amendment onto LB63 that adds a juvenile judge on to Lancaster County. It adds the judge in the out-years. I'm going to talk about that in a moment. LB63 is a juvenile violence bill. I supported this bill, voted it out of committee. We decided as a committee that it's time to get a little bit tougher on these types of crimes, and that's good. But I wanted to take this opportunity to remind the body that when we as a body make decisions about increasing penalties, making new penalties, that there are consequences to that, not just to the criminals who are affected by this, that's the intent, but there are unintended consequences. And these unintended consequences often come with a cost. And to that I'd like to ask Senator Pirsch a few questions, if he would yield. [LB63]

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

SENATOR PIRSCH: I will. [LB63]

SENATOR COASH: Senator Pirsch, you have worked in the juvenile courts in Douglas County, correct? [LB63]

SENATOR PIRSCH: Correct. [LB63]

SENATOR COASH: When you see bills such as LB63 come before the body that have an effect on increasing penalties and have an effect on violence and things that LB63 impacts, do you have any opinion on what that might do to the judicial workload for the counties that would be affected? [LB63]

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SENATOR PIRSCH: You mean with the enhancement of penalties, what that does in terms of the workload? [LB63]

SENATOR COASH: Yeah. How that affects the overall court system, how it affects the need for more trials and things of that nature. [LB63]

SENATOR PIRSCH: Well, you know, it certainly would affect...there's...with enhanced penalties in the underlying LB63, there are a number of gun violence type of statutes. It would have an effect and I can't really comment on the extent of the effect in terms of corrections because there's mandatory minimums that are going into effect in a number of these and enhancement of penalties from in some cases misdemeanors to felonies. And so it may well result in a greater duration of time in jail for offenders. With respect to the enhancement of penalties and the effect on the trial process, the courts, it may well be that because of the tougher penalties that...you know, and it's kind of conjecture at this point, but it may result in taking cases to trial when there are mandatory minimums involved. [LB63]

SENATOR COASH: Thank you, Senator Pirsch. And I wanted to clarify. If I said Lancaster County juvenile judge, this is a juvenile judge to go into Douglas County. [LB63]

SENATOR PIRSCH: Yes. [LB63]

SENATOR COASH: I asked Senator Pirsch this yesterday because it's my understanding that when we increase penalties people tend to take things to trial more often. We saw that with DUI laws. We saw that with other laws that this body has seen fit to pass. And I wanted, again, to take this opportunity to remind the body that when we make decisions to increase penalties, we make a decision to increase the need for resources. And to that end, I also have a question for Senator Council, if she would yield. [LB63]

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

SENATOR COUNCIL: Yes, Mr. President. [LB63]

SENATOR COASH: Thank you, Senator Council. Senator Council, when you see increased penalties, increased fines, from your experience working on the corrections council and working with juvenile offenders, can you speak just briefly about the effects that increased penalties have on our correction system? [LB63]

SENATOR COUNCIL: Yes. Thank you, Senator Coash. And admittedly, I've only been on the Community Corrections Council for the time that I've been here in the

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Legislature. But prior to that I served as a member of the community advisory council to the Omaha Correctional Center, then under the leadership of now director Robert Houston. And I can tell you that currently, as has been reported, the Nebraska Department of Corrections is more than 140 percent of capacity in all of our correctional facilities. And that 140 percent of capacity is a threshold that if it gets much above that triggers certain actions that are to be taken, including declaration of emergency. That could result in individuals being released into the society sooner than they should be. And with these enhanced penalties and what we're looking at are the changes I think that will have the most dramatic impact on our correctional facilities, are where we change penalties that have a range of sentences to those that require mandatory minimum sentences. And when you have those mandatory minimum sentences, that is what adds to the cost of incarceration, and particularly when we're talking about juveniles. If we're talking about increasing the juvenile population in our correctional facilities, we're talking a cost that is at least 60 percent higher than the cost of incarcerating an adult. [LB63]

SENATOR COASH: Thank you, Senator Council. I appreciate that. And I ask these questions on the mike because I want the body to consider what reasonably follows bill like LB63. There's obviously a need to address violence, guns. And I believe that is what LB63 is doing. I support that. But I want to make sure that we understand what the consequences to that. And I have one more question. And I was wondering if Senator Heidemann would yield to a question. [LB63]

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

SENATOR HEIDEMANN: Yes. [LB63]

SENATOR COASH: Thank you, Senator Heidemann. Senator Heidemann, you and I had some conversations. This amendment actually puts this juvenile judge for Douglas County...not immediately because, as we understand it, Douglas County doesn't have the capacity, just physical space for this judge, but this judge is allocated to happen in the out-years, so it doesn't show up on this year's biennium. And I was wondering if you could speak briefly to how you see, as Appropriations Chair, putting budget items into the out-years? [LB63]

SENATOR HEIDEMANN: Sometimes it's justifiable. And what you're saying right now it's not impossible, it's not justifiable because, number one, they're not ready for it and maybe the need for it wouldn't happen for two or three years. Usually as a process, though, we very much discourage people that present bills that we call a back funding or not funding for a couple of years so that it doesn't show up in an A bill, but it will show up in the out-biennium. We don't think that's the best practice, so we try to discourage that. Sometimes it does happen and sometimes it is justifiable. [LB63]

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SENATOR COASH: Thank you, Senator Heidemann. And I appreciate that kind of leadership from our Appropriations Committee. I think one of the comments you said to me is, we got to deal in the now and we got to deal with what we have right now. Members of body, in a moment I'm going to pull this amendment because I believe in the leadership, Senator Heidemann, that we do have to deal in the now. But I want the body to remember that this isn't additional resources as a result of what we do in here, this isn't over. And when we make decisions to increase penalties, there's a cost. There's a cost and it's not just the...and there is a cost of getting tough on crime and I just want to make sure that the body remembers that. And to that end, I'd like to withdraw AM995. [LB63]

SENATOR ROBERT: AM995 is withdrawn. Mr. Clerk. [LB63]

ASSISTANT CLERK: Mr. President, the next amendment is offered by Senator Christensen, AM1088. (Legislative Journal page 1074.) [LB63]

SENATOR ROBERT: Senator Christensen, you're recognized to open on AM1088. [LB63]

SENATOR CHRISTENSEN: Thank you, Mr. President and members. AM1088 would amend LB429 in LB63. The Judiciary Committee advanced LB429 out of the committee to General File with a unanimous vote. It had no opposition during the hearing. AM1088 would allow the Department of Correctional Services to enter into an arrangement with school districts, educational service units, community colleges, state colleges, and universities for employment of persons committed to that department. In addition, it requires such persons to be supervised. Currently, Section 83-183, Section 1, provides the authority of Department of Correction Services to enter into arrangements with any other board or agency of the state, any natural resource district or any other political subdivision except for political subdivisions such as school districts, educational service units, community colleges, state colleges, and universities. I introduced LB429, which is now AM1088, to allow that previously...what was previously being done at the Work Ethic Camp in McCook since 2002 but prior to about nine months ago. At that time Corrections stopped entering into these arrangements after reevaluating whether the Work Ethic Camp was included under the restrictions provided in 83-183. It was unclear if the passage of LB83 in 2007, which allowed inmates and not just probationers into Work Ethic Camp, changed Work Ethic Camp statutes under 83-183. Several people from McCook and surrounding areas contacted me to consider introducing a bill that would allow them to resume the use of employment from the Work Ethic Camp for the educational subdivision in their area. Certain members of the McCook Chamber contacted me, along with those from participating schools or ESUs which had very positive experiences with their previous work arrangements. I believe AM1088 is an appropriate change to continue and expand this successful partnership between the Department of Corrections and local political subdivisions. Give you a couple of...here's

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the...from NCTA, Nebraska College of Technical Agriculture, Weldon Sleight says: We feel that the work the offenders do on our campus in the West Central Research and Extension Center in North Platte not only helps the university but also is a great value to the offenders. The offenders have been introduced to agricultural systems and building maintenance that will be important to securing employment once they are released. Some examples of experience they receive while working at our institution includes farming, and placement of concrete, remodeling projects, and irrigation procedures. We recognized that the concerns of having offenders working on campus, but the offenders working at NCTA campus have been very well supervised and have worked hard with no interaction with students. That was Weldon Sleight. This is Dr. Chipps from Mid-Plains Community College in North Platte and McCook: The college has just partnered with the Work Ethic Camp to provide courses in welding for the Work Ethic Camp offenders or, as the college calls them, learners. Exposure to education is vital for those that may have never been given skills to seek higher education or even to complete their GED. At the Center of Applied Science and Technology, a new facility for the college located in McCook, Nebraska, and created in part to fulfill the partnership, Mid-Plains is now providing these learners with specific sets of skilled jobs to help them be productive citizens when they return to society. The purpose of this letter is to encourage you to support for LB429. Prior to Mid-Plains leasing our current facility, Work Ethic Camp inmates provided supervised assistance in retrofitting of the building. When taking a tour one day, I observed the inmates working diligently with their supervisor close at hand. The work seemed to give them a sense of pride to be involved in the initiative that was giving the community of McCook a new learning center and one that would have a direct and strong benefit for some of them. One even said he wished he could be able to take the welding class, but he would be released prior to the start date. Although much of this is still undone and ongoing, under current law the college can no longer utilize services of the Work Ethic Camp. The practice hindered this very important initiative at the same time it deprives Work Ethic Camp offenders from helping create new learning environment that will eventually benefit many of them that serve in Nebraska. This from Rick Haney, business manager of McCook Public Schools: We have been the benefactor of their support for many years and have many building projects, facility improvements to credit to their efforts. This is from a letter from Mr. Dennis Berry, principal of McCook Junior High: On February 6, 2001, LB112 was not intended to impact the Work Ethic Camp. And he goes on to say: Safeguards will be initiated through schedules and work locations to preclude contact between the offenders and students. He also said: It didn't impact the Work Ethic Camp express agreements with offenders working on school grounds or hospitals as community service. There's been many benefits that they've been able to do at schools. I've got a school, Southwest, that has just built a new school. They're moving from two, three locations into one. And they're hoping this bill gets passed so they can utilize the free help to get moved into their new facility rather than hiring, increasing the cost of their new facility. I want to encourage you to vote for this bill. If you have questions, I'd be glad to address them. Thank you, Mr. President. [LB63 LB429]

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SENATOR ROBERT: Thank you, Senator Christensen. (Doctor of the day introduced.) Members, you have heard the opening to AM1088 to LB63. Those members wishing to speak: Senators Ashford, Friend, Hadley, and Nelson. Senator Ashford, you are recognized. [LB63]

SENATOR ASHFORD: Thank you, Mr. President. I stand in support of this amendment. And I want to take this opportunity very quickly to talk a little bit about the need for community corrections, the need for diversion. And certainly the McCook camp and expanding opportunities for offenders in that facility is a positive, positive thing. And I strongly support this amendment, as did the Judiciary Committee. Senator Harms and Senator Carlson and others, Senator Council have talked about incarceration and the fact that we have so many offenders in our prisons. There is no question that that's the case. Senator Carlson has a very...we had a great meeting, a very thoughtful meeting with Department of Corrections and we talked about the need to reform the whole system when it comes to sentencing and who do we sentence and who do we divert. And there are some glaring facts that we...60 percent of our incarcerated inmates are nonviolent offenders, 40 percent are violent offenders. So it is clear, it is clear that we need to continue to work hard on community corrections. We need to work hard on alternative courts. We need to work hard on prevention. We need to work hard on getting juveniles off the street and getting them into the right place. At the same time we have an obligation to keep our families safe. We have to protect our citizens against the most violent of offenders. And that's what incarceration is for. That is what incarceration is for. It is imperative that this body make that shift, that we make absolutely certain that we enforce the law against violent offenders, that there are spaces for them to be incarcerated to get them off the street, to get them into a place where they are safe and where they are not going to do harm to themselves or others. That is a critical part of this debate. And I'm hopeful that this body will endorse a resolution that the Judiciary Committee is going to bring to the floor that would appoint a commission to talk about and think about sentencing procedures and how they relate to incarceration. What people are we putting into our prisons? What types of offenses are we dealing with in an incarcerated environment? So, sure, when we enhance penalties for violent offenses, that means more people are going to be incarcerated. But at the same time, we need to balance that approach with prevention and diversion. And that's what LB63 is all about. Senator Christensen's amendment, a bill that this committee has...that the Judiciary Committee advanced to the floor unanimously, is exactly that. It's a focus on reducing recidivism, encouraging inmates to work, and to bringing them back into the community in a productive fashion. So this debate over LB63 is a good debate because it focuses really on where we're going as a state. The public demands protection. They demand that they be kept safe in their homes and their children are safe in their schools when they walk to school. That is an imperative. It is a massively important thing that we do here, is to ensure that that is the case. That's why we fund our courts. That's why we fund our State Patrol. That's why we fund our Attorney General's Office, because it's

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imperative that we enforce the law, but it's also...especially against violent offenders. But it is critical that we listen to what Senator Carlson and Senator Harms and Senator Council have talked about and others have all talked about, the need to have a balanced approach to corrections. [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR ASHFORD: So with that, I strongly urge that we advance AM1088 or we attach AM1088 and advance LB63, which we'll have more discussion about later. Thank you. [LB63]

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

SENATOR FRIEND: Thank you, Mr. President and members of Legislature. The amendment, which was the original bill, LB429, I'm in support of that amendment. Real quickly, this is an enhancement that Senator Christensen is proposing. And the enhancement dealing with school districts, ESUs, you know, community colleges, state colleges and universities, more often than not those type of entities are ill-equipped to deal with the type of supervision that's required in this environment. Now, I wouldn't say they do a bad job of it now or I wouldn't say that the situation hasn't arisen where, you know, some good things have happened in regard to supervision relating to the colleges and universities and those type of entities. But all I'm saying is that I think that the language in here and its intent makes a lot of sense. Let me give you a briefing if I can, really brief, on this bill. And we can go further into...more in depth later. It looks like we're going to be on this for a little while. But Senator Ashford brought up the need for the Office of Violence Prevention and the advisory council, the development of those things. From the very beginning of this session, I've tried to set out at least my idea of prioritizing, especially when it comes to...especially when it comes to taxpayer spending. And Senator Ashford and I have talked about this ad nauseam. One of the things that I know works is when you put boots on the ground and people who understand how to deal with crime prevention--police, consultants, activists, people from...the citizens that work for the Boys Club in Omaha, for example--these people know what the problems are and these are proven ways of not only keeping kids in school but giving them something to deal with that makes them a heck of a lot happier and more productive. Senator Ashford is right. And a lot of times what you end up having to say is we're looking for money and a lot of times you end up saying there isn't enough to do with what...you know, to do what Friend or anybody else is trying to promote that we need to do. What I would say is this: It's a start. I don't know where we're going to end up, you know, what the final amount would end up being. And some would step back and say, well, let's compare and contrast. Friend, you've railed against excess spending in behavioral health and all kinds of other. I've tried to set a record. I've tried to say it right out in front of you that a lot of the things we've done in the last few



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weeks I didn't think would work. I think this will work. And I'm not just talking about increased penalties. We have those in here. But I think the up-front approach in trying to grab some of these kids, trying to grab them with the people that understand what they're going through, there's a track record of success. And I could kill you with paper that would show you that. This bill does all of those things that we were talking about. It increases those penalties. It deals with things that people think we should deal with on the back end. We created an offense of a discharge of a firearm from a vehicle within populated communities and make it a Class IC felony, things like that. We prohibit persons currently under a valid protection order, who are actively violating that protection order, and persons who have been convicted of a misdemeanor,... [LB63 LB429]

SENATOR ROBERT: One minute. [LB63]

SENATOR FRIEND: ...crimes of domestic violence, from possession of a firearm, a knife or brass. We're hitting people in the spots where we end up needing to hit them, but Senator Ashford is right. We need to hit them on the front end, too. And I shouldn't say hit, we need to address it on the front end as well. If there are any questions about what we're trying to do, I did pass out a summary of AM212, which was the original amendment. If there are any questions about what we're trying to do, what we're trying to accomplish, I'd be happy to answer any questions and I think Senator Ashford would, too. Thank you, Mr. President. [LB63]

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

SENATOR HADLEY: Mr. President, members of the body, will Senator Christensen yield to a question? [LB63]

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

SENATOR CHRISTENSEN: Yes. [LB63]

SENATOR HADLEY: You mentioned the, I wrote it down, the Work Ethic Camp and such as that. Would this bill, though, apply to anyone who's incarcerated that has a work release possibility? [LB63]

SENATOR CHRISTENSEN: Yes. This bill can affect...if we look at our fiscal note, says DCS states that the bill would expand work opportunities for inmates at community correction centers in Omaha and Lincoln and the Work Ethic Camp, McCook. [LB63]

SENATOR HADLEY: Okay. I noticed in going back to the original bill that there was no

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input from the university system, the college system, the Department of Education, those kinds of things. Did you seek any input from those institutions regarding this bill? [LB63]

SENATOR CHRISTENSEN: Well, Weldon Sleight that I quoted in my opening is from NCTA, that's part of the university system. And then I had Dr. Chipps out of Mid-Plains Community College in McCook and North Platte. And then I had the McCook Public Schools. Dennis Berry is a principal in the junior high. And then I had Rick Haney, the business manager of McCook Public Schools. [LB63]

SENATOR HADLEY: Okay. You know, I think this is a good idea. One last question: This would not require the schools or other entities that you talk about here to accept someone. They may accept someone. Would that be the correct terminology? [LB63]

SENATOR CHRISTENSEN: That's correct. The Work Ethic Camp and the school has to come into an agreement, signed agreement to go work. [LB63]

SENATOR HADLEY: You say the Work Ethic Camp. How about the other... [LB63]

SENATOR CHRISTENSEN: Or any of them. They have to come to an agreement on terms before they do this. [LB63]

SENATOR HADLEY: Okay. I think the devil is in the details here and I do support this, but I also worry about making sure that we have a really good system in place to be sure the right people are being sent to the right place. Because I can imagine a headline in the newspaper saying, you know, Legislature allows work release, and then some incident happens on a college campus or in a school. And of course, people are going to blame us and the program. So I hope we have a good system to be sure that those people that are allowed to do this are the right people to do it and there is correct supervision, and also that the institution that is accepting them certainly understands exactly what they're getting when they get this person. [LB63]

SENATOR CHRISTENSEN: Senator Hadley, that's why it says they have to be supervised. They always were previously, but I wrote in there that they must be supervised. And that's why they have to come into agreement before this is performed. That way they can regulate. They can only do it in the summer, if that's their concern, when there's not kids there or they can do it over Christmas vacation. You know, you might have needs of trimming trees after a storm or something, come and to do that, only hours kids aren't out or anything that direction. That's why it's flexible to have that contract. [LB63]

SENATOR HADLEY: Okay. Thank you, Senator Christensen. I would yield the rest of my time, if any is left, to Senator Christensen. [LB63]

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SENATOR ROBERT: Senator Christensen, 1 minute 20 seconds. [LB63]

SENATOR CHRISTENSEN: Thank you, Mr. Hadley. And I do appreciate that. And, you know, we have a history ever since the beginning of the camp that we've had these work arrangements and we have never had a problem. And we just wanted to get back to it because when we expanded the scope with LB63 that Senator Synowiecki brought, 2007, we brought some confusion to whether they could still work there or not. So this bill strictly just addresses that they can voluntarily go into these work arrangements and agreements to work at these schools that fits the schedule not only of the schools and the Work Ethic Camp, but the timing. If they don't want them at the school when there's ever kids there, they can do it that way. If they want to have to address an ice storm sometime and need to do it over Christmas or some other time, they can be there. But that's why they always have to be supervised because this is very important that this is done correctly, that there are no problems. And I hope if there's any additional questions that you'll feel free to ask them. [LB63]

SENATOR ROBERT: Time. Thank you, Senator Christensen and Senator Hadley. Senator Nelson, you're recognized. [LB63]

SENATOR NELSON: Thank you, Mr. President, members of the body. Would Senator Christensen entertain a question or two? [LB63]

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

SENATOR CHRISTENSEN: Yes. [LB63]

SENATOR NELSON: Thank you, Senator. I wanted to talk with you off mike, but Senator Hadley got to your first. Basically, I'm in support of this. If you have your amendment in front of you, looking on page 1 there at line 15, the word "except" used to be in there. And I'm guessing that for some reason it said except for school districts, educational units. And that was the unintentional thing that got in there in some way with Senator Synowiecki's bill. Would that be correct? [LB63]

SENATOR CHRISTENSEN: Yes. [LB63]

SENATOR NELSON: All right. And that was not intended. You're going to require, you're using the word "shall" there, shall include supervision in those area school districts, etcetera. What about the other political subdivisions such as the natural resources district, other boards? Is it "may" there, they may have supervision or may not? Or as a matter of practice do they always have supervision when they go into other agencies and areas? [LB63]

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SENATOR CHRISTENSEN: Well, I guess I don't know if it says "shall" on the others, but I have seen them working in public parks. I've seen them painting curbs. I've seen them trimming trees and they have always been supervised. [LB63]

SENATOR NELSON: All right. I did not see any requirement for the others. And you're saying here when you take out the "except" and by inference there you're including with your language the school districts, the community colleges and everything shall include that supervision. So I was thinking about a friendly amendment, but I guess the way you have it worded here will pretty well cover things, except it doesn't seem to require supervision in those other areas that have been used in the past. Thank you, Senator. Thank you, Mr. President. [LB63]

SENATOR ROBERT: Thank you, Senator Nelson. Senator Pirsch, you are recognized. [LB63]

SENATOR PIRSCH: Thank you very much, Mr. President, members of the body. And I appreciate the discussion both on the amendment and just kind of some of the overriding concepts that have been brought up as a result of this bill. And, you know, I think I'll reiterate that, which I have stated before on this floor which is...and I do appreciate all the comments. Senator Council and I serve on the Community Corrections Council. And the underlying concept behind that, which was created a number of, oh, six years ago, the Speaker, former Speaker Kermit Brashear, I think, was the force behind the creation of that council. And he started it at a point in time in which we were faced with some tough choices. And I got to tell you those tough choices probably remain even to this day. At the time, we were at 140 percent of prison capacity as it exists throughout the state. And two bad things can happen to you as a state when you're at a high level of overcapacity. And prisoners can bring lawsuits alleging that you're violating their constitutional right. And at that point in time the courts can take jurisdiction then if they do find that that overcapacity do violate their rights. And the two bad things that a court can do, as far as we in the Legislature are concerned, it takes the control out of this body's hand in terms of managing our prison population. And in certain circumstances courts can order...states have the legal authority to order states to build additional prisons, which easily could be over \$100 million plus. And so that's always a bad outcome where that amount of money at a point in time where the economy is so low and we just don't have that type of money to accommodate that legal order. The second bad thing is the courts could have the power of their own accord to begin releasing, in a manner in which they determine, prisoners, offenders from the correctional facilities. Would they necessarily release those people that we would...I mean, want to release first those who would be least harmful to society or would they possibly order the release of individuals, offenders who we would estimate pose a greater threat to society being release? Who knows. But that control is taken out of our hands when it gets to that point. And so we need to be proactive, and we've talked about this before, rather than managing from a crisis perspective. And this Community

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Corrections Council was kind of borne out of that dilemma just, you know, six years back or so. And at the time that we had 140 percent capacity they identified low-risk, nonviolent drug offenders, people who were in jail because they essentially have addictions that they haven't been able to get over, and designed...the concept was rather than run the risk of releasing the murders, the violent offenders, concentrate on these people in a manner that would be a lot cheaper to deal with. It takes about \$20,000-\$32,000 a year to incarcerate an individual in the correctional facilities. These community correctional programs can be designed in a manner that is far cheaper for the public, the taxpayers to pay for it, \$2,000 to \$5,000, with the idea of rehabilitation. And so what that does, it ensures and it has ensured that anytime we have one of these... [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR PIRSCH: I'm sorry, did you say one minute? [LB63]

SENATOR ROBERT: I did. [LB63]

SENATOR PIRSCH: Any time that we have one of these violent offenders, there has been a space waiting for them in the correctional center. But as the overall number of offenders has continued to go up, we have to always be looking at ways to make sure that there is spaces for those violent offenders that we fear. And so we need to design programs for those offenders we're mad at because of their additions and in a way that is far cheaper for the taxpayers, in a way that doesn't then threaten the public. And so that's the idea behind the community corrections. I plan on having a legislative interim hearing introducing...I'm sure Senator Council would... [LB63]

SENATOR ROBERT: Time. [LB63]

SENATOR PIRSCH: ...be a part of that as well. Thank you very much. [LB63]

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

SENATOR COUNCIL: Yes, thank you, Mr. President. I rise in support of AM1088. And I appreciate Senator Christensen introducing this measure and recognizing the importance of transitional programs and providing the best preparation for inmates to reenter our communities. And under AM1088, it would expand those opportunities. And as Senator Pirsch mentioned, the Community Corrections Council continues to strive to look at opportunities to increase the opportunities for inmates to successfully reenter our communities and reduce the rate of recidivism. By utilizing inmates through the Work Ethic Camp or the work release program in the manner set forth in AM1088, we provide a service. In addition to those industries that are currently being provided this labor and

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providing inmates with training, it also provides our educational institutions throughout the state with that type of skilled labor and helps to develop the skills of these inmates. So I would urge the committee the advancement of AM1088 by the body because there are going to certainly be aspects of LB63 that are going to require much longer debate and perhaps a little more contentious debate than AM1088. This is a measure where all involved will benefit, the inmates and the community. And with that, I'll yield the balance of my time to Senator Nantkes, if she would like it. [LB63]

SENATOR ROBERT: Senator Nantkes, 3 minutes 8 seconds. [LB63]

SENATOR NANTKES: Thank you, Mr. President. Thank you, Senator Council, for the time. Colleagues, I'm glad that we're having a wide-ranging discussion on criminal penalties and the costs thereof this morning because I think that is an important public policy issue that should be drawn out in terms of this debate. But additionally, I wanted to highlight for the fact and highlight for the body that, as you all well know, we're going to be talking very, very soon about Nebraska's most high-level criminal penalty that we can impose upon our citizenry. And the cost issue involved in continuing the death penalty and changing the method of execution in the state has yet to have any light shed upon it. And it's, I think, important to talk about the time line in this regard. February 2008, the Nebraska Supreme Court says, in State v. Mata, that the electric chair violates our prohibition against cruel and unusual punishment. July 4, 2008, Fox News runs a story which shows Nebraska Governor Dave Heineman asking Nebraska Attorney General Jon Bruning to look into switching Nebraska's method of execution. December '08, the Attorney General presents a report to the Governor, yet no information in regards to the cost of changing the method of execution. January 8, 2009, LB36 is introduced. January 28, the fiscal note is filed. The Attorney General states that there will be no additional costs in changing Nebraska's method of execution. January 29, there is a public hearing on LB36, and proponents bring forward no proof into the record in regards to what the additional costs will be. April 20, 2009, former Senator Schimek writes an Op-Ed in Omaha World-Herald asking for the Attorney General to clarify what the costs associated with this measure will be. No response. April 29, 2009, Senator Nordquist and I sent a letter to the Attorney General's Office... [LB63 LB36]

SENATOR ROBERT: One minute. [LB63]

SENATOR NANTKES: ...asking for some sort of illumination on what the actual costs the fiscal components of this bill will be. No response. Today it's May 12. It's been well over a year and we have yet to have any sort of concrete evidence put forward from the Nebraska Attorney General's Office about really what fiscal impacts are going to be on changing Nebraska's method of execution. And so it's hard to know what, you know, here on lesser offenses how these fiscal impacts are actually going to work or not work. And I think that all of this dialogue that we've had this morning is instructive. And I would challenge my colleagues to look with a fiscally conservative eye as they are this

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morning towards that ultimate penalty. With that, thank you, Mr. President. [LB63]

SENATOR ROBERT: Thank you, Senator Nantkes, Senator Council. Senator Carlson, you're next and recognized. Members, please hold your conversations to a minimum, please. [LB63]

SENATOR CARLSON: Mr. President and members of the Legislature, I am in support of AM1088. I have made the statement a few different times on this floor that I think that we have too many people incarcerated for too many different offenses. However, in saying that if someone thinks that I am soft on crime I don't think that I am. In fact, if somebody committed a heinous crime at 6:00 in the morning, murdered somebody and it was intentional and it was not brought on by any action of the victim and it was committed on someone who deserves to live, we know they did it, there's no question they did it, if they faced a firing squad at 6:00 p.m. that evening, I'd be good with it. That would make the death penalty effective and a deterrent. But that's not the way it is now. Now, that's not why I rose to speak. I do have a question for Senator Christensen, if he would yield. [LB63]

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

SENATOR CHRISTENSEN: Yes. [LB63]

SENATOR CARLSON: Senator Christensen, in the Work Ethic Camp, the people that are brought there, what's the average length of stay? [LB63]

SENATOR CHRISTENSEN: About six months. [LB63]

SENATOR CARLSON: So in that period of six months if they are introduced to some kind of a work program it's not going to last very long, but we hope that it has an impact on how they might perform after they leave. Would this be correct? [LB63]

SENATOR CHRISTENSEN: Yes. [LB63]

SENATOR CARLSON: Now, that would be considered work within the system, would it not? [LB63]

SENATOR CHRISTENSEN: Yes. [LB63]

SENATOR CARLSON: And work within the correction system, they receive pay for that work. Give me an example of the pay per day that they would receive. [LB63]

SENATOR CHRISTENSEN: A dollar twenty to about \$3.20 a day. [LB63]

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SENATOR CARLSON: A dollar twenty to \$3.20 a day. Do they pay taxes on those earnings? [LB63]

SENATOR CHRISTENSEN: I doubt they could earn enough to have to pay it. Should have been \$1.20 to \$3.78 a day. [LB63]

SENATOR CARLSON: Okay. And I think that they do pay taxes on those earnings. Now, if they are released, for example, to go to the College of Technical Agriculture at Curtis, how much would the college pay for that work? [LB63]

SENATOR CHRISTENSEN: I don't believe the college would pay anything because it comes out of another fund. [LB63]

SENATOR CARLSON: Well, if it comes out of another fund there's still something paid for that work. [LB63]

SENATOR CHRISTENSEN: Correct. The inmates still be paid, but there's a fund called the Correctional Industrial Revolving Fund, and that would be the fund that that would come out of. [LB63]

SENATOR CARLSON: Okay. Let's move it from the College of Technical Agriculture to a business in McCook. And that business requests work release performance from the Work Ethic Camp. How much might that business pay for that work that's done? [LB63]

SENATOR CHRISTENSEN: I don't know what the business pays. I assume it's the same amount that the people are making. But I don't know if there's anything that the facility gets or not. I can't answer that. [LB63]

SENATOR CARLSON: Okay. Thank you, Senator Christensen. If Senator Council would yield, I'd like to ask her a question or two. [LB63]

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

SENATOR COUNCIL: Yes, Mr. President, Senator Carlson. [LB63]

SENATOR CARLSON: Senator Council, did you hear the questions I just asked Senator Christensen? [LB63]

SENATOR COUNCIL: Yes. [LB63]

SENATOR CARLSON: Okay. On work within the system, and let's take it to the Work Ethic Camp, and a business in McCook requests workers, do you have any idea what



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that business would pay for that work? [LB63]

SENATOR COUNCIL: Well, if the individual is under the work release program it is my understanding, Senator Carlson, that what you're looking at on average is... [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR COUNCIL: ...minimum wage. [LB63]

SENATOR CARLSON: Okay. And so if they pay minimum wage but the, and I'm going to call it inmate here, the inmate only receives \$1, \$2 per day, the rest of that money goes into the correctional system. [LB63]

SENATOR COUNCIL: Now, exactly how that operates, Senator Carlson, it's my understanding that there are some differences between the Work Ethic Camp and the work release... [LB63]

SENATOR CARLSON: I agree with you. I agree. [LB63]

SENATOR COUNCIL: ...because of the transitional phase that individuals are on. And there are individuals who are on work release who earn, in some cases, the equivalent of minimum wage. And so they are working as if they are out on parole. It's the transition period. And then the Work Ethic Camp, those individuals are, for all intents and purposes,... [LB63]

SENATOR ROBERT: Time. [LB63]

SENATOR COUNCIL: ...still considered inmates. [LB63]

SENATOR CARLSON: Thank you. [LB63]

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

SENATOR HARMS: Thank you, Mr. President, colleagues. I rise in support of the amendment, AM1088, as well as the underlying bill, LB63. In my community we've had a similar approach where our twin city development, which is the economic development arm, went into our community and we had a number of houses that were run down, needed something done to them. So they bought the homes. They went to the county jail, worked out an arrangement with the county to use prisoners from in the county to come in and work. And I would have to tell you that for the community it was a good project. For the people who were in jail it was a wonderful experience for the majority of these individuals. They had people, someone, a supervisor work right along

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with them. They grew and found that someone cared about them, taught them a skill that was on-the-job training. The end results for the prisoner was excellent. They learned a little bit of math, learned how to communicate with people. They learned how to use the tools. It was a great experience for the community and for the jail, as well as the prisoners. So I rise in support of this. I think it's extremely important. And as you look at what's happening across Nebraska as well as the country, there are more and more people going into prisons and into jails. And we have to find a solution to this and find a way to rehabilitate these individuals in some form or manner. This is just a small step to do that as long as you have it set up appropriately. So I agree with Senator Ashford and what he's doing, what he's attempting to do here in his support of LB63. So I would ask you to support this amendment as well as the underlying bill. Thank you, Mr. President. [LB63]

SENATOR ROBERT: Thank you, Senator Harms. Senator Nantkes, you are next and recognized. [LB63]

SENATOR NANTKES: Thank you, Mr. President and colleagues. Again, I just wanted to...I got cut a little bit short there, but just drive home the point that over 14 months after Nebraska's ultimate sanction and the method of executing that sanction was ruled unconstitutional, we have yet to receive any hard facts or any clear information from the Nebraska Attorney General's Office about the increased costs in changing Nebraska's sole method of execution. And I think that that's a travesty. I think that when something that serious is before this body and before this state that the least we could expect is a straightforward communication on actual fiscal costs. And I guess if we're not even able to get any information in that regard, it draws into question so many broader questions. But to move forward, I don't want to take up more time this morning, but I did want to point out that critical time line for the body because I think it does matter. And as that debate gets ever closer, we're left with incomplete information because the lack of responsiveness from our Attorney General's Office in this state, and I think that's shameful. Thank you, Mr. President. [LB63]

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

SENATOR CARLSON: Mr. President and members of the Legislature, if Senator Ashford would yield, I'd like to engage in a little conversation with him. [LB63]

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

SENATOR ASHFORD: Yes. Thank you. [LB63]

SENATOR CARLSON: Senator Ashford, on my earlier time I talked with Senator Christensen and Senator Council. What I'm trying to get at here is that in the system of

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the Work Ethic Camp, this work that they do is within the definition of system, work within the system, correct? [LB63]

SENATOR ASHFORD: Correct. [LB63]

SENATOR CARLSON: And work within the system does not involve much pay, but it involves the opportunity to learn. [LB63]

SENATOR ASHFORD: Correct. [LB63]

SENATOR CARLSON: And I think that's a good thing. Now, work within the system like at the Work Ethic Camp, they're actually going to be out in the community. And I used the example of a business in McCook that wants some work done. [LB63]

SENATOR ASHFORD: Correct. [LB63]

SENATOR CARLSON: Now, we know that the offender is not going to receive much money for that work, but they still have a positive experience. But what's the business going to pay? Do they pay minimum wage or do they pay something higher than that? [LB63]

SENATOR ASHFORD: That's a good...I believe that they have to pay minimum wage. Now, the question...I don't believe that...there may be...I don't know the answer. Let me check with counsel. [LB63]

SENATOR CARLSON: Well, before you go... [LB63]

SENATOR ASHFORD: They don't receive minimum wage, I don't believe. But I think... [LB63]

SENATOR CARLSON: All right. Let's make a point. You may forget about this. (Laugh) [LB63]

SENATOR ASHFORD: Right. And I don't know the answer. I think they have to...but I think there's some sort of exemption. Let me check with counsel. [LB63]

SENATOR CARLSON: Okay. Now, don't get away. I'm not through with you yet. [LB63]

SENATOR ASHFORD: I want to be accurate. [LB63]

SENATOR CARLSON: (Laugh) I know. I appreciate that. But I'm trying to get at that if the pay is at least minimum wage and the offender earns \$2 an hour of that, the balance could come back into the system to help fund this whole program. [LB63]

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SENATOR ASHFORD: I believe that partially happens. I can get the breakdown. But that's a good point. Yes. [LB63]

SENATOR CARLSON: Now... [LB63]

SENATOR ASHFORD: Theoretically, you're absolutely correct, Senator. [LB63]

SENATOR CARLSON: All right. Now, in the system itself the next stage would be...and let's get back to perhaps inmates at the penitentiary, the next stage would be work release. Would that be correct? [LB63]

SENATOR ASHFORD: Correct. [LB63]

SENATOR CARLSON: Work release may be out in the community. And on work release, an inmate makes more than \$1 or \$2 a day or \$1 or \$2 an hour. They make perhaps close to minimum wage or maybe even higher. Correct? [LB63]

SENATOR ASHFORD: That's correct, but they're not allowed to keep the total amount. And that's what I'm... [LB63]

SENATOR CARLSON: No. That's okay. [LB63]

SENATOR ASHFORD: Okay. All right. [LB63]

SENATOR CARLSON: That's okay. Do they pay taxes on what they earn? [LB63]

SENATOR ASHFORD They would pay taxes on what they earn. [LB63]

SENATOR CARLSON Okay. Now, if they are able to keep \$10 an hour but they're making \$15 an hour, the system keeps the \$5. [LB63]

SENATOR ASHFORD: And I believe that's how it works in some incremental way, yes. [LB63]

SENATOR CARLSON: I see nothing wrong with that. [LB63]

SENATOR ASHFORD: I don't either, Senator Carlson. [LB63]

SENATOR CARLSON: And I think it ought to be encouraged more and more because it's an opportunity for work release. It's also an opportunity for the system to help pay for itself. It's an opportunity to prepare people for when they are released to become a positive member of society. And if they're earning something reasonable in the process,

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there's an incentive to do it. And the more these kinds of things that we can talk about and discuss and implement, the better off our entire system will be. And we are better preparing people for the day that they are released. Thank you, Senator Ashford. Thank you, Mr. President. [LB63]

SENATOR ROBERT: Thank you, Senator Carlson. Senator Pirsch, you are recognized. [LB63]

SENATOR PIRSCH: I'll waive. [LB63]

SENATOR ROBERT: Senator Pirsch waives. Senator Lautenbaugh waives. Senator Hansen, you are recognized. [LB63]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. That came a little quicker than I thought. I, too, would like to stand and speak to Senator Christensen's amendment and the Work Ethic Camp in McCook. The numbers are up. We've had questions in the past on the floor about how full they were. They are near capacity and they do work around the community. I do know that there was an article in the North Platte paper last Sunday that quoted that the work release people had been remodeling the probation office in North Platte prior to a move the probation office to build a new jail. So the Work Ethic Camp does supply labor. I'm not aware of what they get paid and where that excess money goes. If the county pays them or not, I don't know. But they do do a good job. And then with the State Historical Society and the Lincoln County Museum, they work out there fairly regularly, I think, cleaning old machinery for display, painting that machinery, getting the exhibits ready to go during the summertime. So they do do a good job and they are supervised. People that question whether they are supervised or not, I don't think you want anybody that's in the prison system to have a van and drive from McCook to North Platte to do work. So I would just assume that they're pretty well supervised on the way up. So I have met a few of them in the past and they seem like they are learning a work ethic. And I think that's very important with the system and they become good citizens. So it serves a purpose and I appreciate Senator Christensen's amendment. Thank you, Mr. President. [LB63]

SENATOR ROBERT: Thank you, Senator Hansen. Seeing no other lights on, Senator Christensen, you're recognized to close on AM1088. Senator Christensen waives closing. Members, the question before the body is, shall AM1088 be adopted to LB63? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB63]

ASSISTANT CLERK: 37 ayes, 0 nays on the adoption of Senator Christensen's amendment, Mr. President. [LB63]

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SENATOR ROBERT: AM1088 is adopted. Next item. [LB63]

ASSISTANT CLERK: Mr. President, Senator Ashford would offer AM1124. (Legislative Journal page 1180.) [LB63]

SENATOR ROBERT: Senator Ashford, you're recognized to open on AM1124. [LB63]

SENATOR ASHFORD: Thank you, Mr. President and members. AM1124 transfers cash funds from the Community Corrections Uniform Data Analysis Cash Fund into the cash fund set up to administer the Office of Violence Prevention. In the bill as advanced off General File, as the body may recall, there was a \$450,000 General Fund appropriation for the Office of Violence Prevention. And as Senator Friend has already reminded us about the office, it is to be set up to encourage, to coordinate, to collaborate with local government and local community-based groups to develop programs for prevention and intervention. Just as a quick sidelight, I had the opportunity on Friday morning to meet with the mayor of New York, Mayor Bloomberg, the police commissioner, Commissioner Kelly, and the majority leader of the New York Senate, Malcolm Smith from Harlem. And we talked a great deal about crime prevention and what Mayor Bloomberg and Mayor Giuliani before him have been able to accomplish in New York is just incredible, it's outstanding, it's astonishing. The reduction in the murder rate of over 30 percent, the reduction in violent crime, the reduction in illegal gun crime is amazing. And one of the key elements of the success of the New York model is, as Senator Friend rightly suggests, very high intensity police activity in hot-spot areas. And we talked a lot about that. In fact, I did a walking tour of the Lower East Side and saw some of that in action, and it is incredible. But the other part of that, Senator Smith's initiative, is a initiative similar to the Office of Violence Prevention in New York State. And it's an effort to bring together upstate New York and the city into a holistic effort to prevent violent crime. And obviously, every violent crime that's prevented is one less victim or victims and certainly one less person incarcerated in the system. The idea here, as I suggested on General File, is for the first time in our state really is to bring together prevention and enforcement and punishment really and rehabilitation into a holistic concept as is being done in New York very successfully. I know this is a shift to some degree, but I think it's an important shift. Back in 1993, a senator actually said...then Senator Lindsay and I worked on creating a crime summit in December of 1993 where we brought the governor and the mayor of Omaha. We were having an increase in crime at that time. Mayor Morgan was a very activist mayor in the area of crime prevention. And we got together with the state and then the Attorney General at that time, Attorney General Stenberg, and tried to put something like this together. It did not happen. It did not happen. And certainly violent crime has increased. I think there is a significant part the state can play in this Office of Violence Prevention working with law enforcement. And I did pass around to the body a list of functions, for example, that the Boys Club does in Omaha, the gang-related activities that they're involved in, the night activities and the juvenile crime intervention activities. Those are the kinds of things that need to be

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coordinated so that there isn't redundancy. One of the things that I have seen, at least in my community, is we have so many groups out there trying to do the same thing, and that's wasteful in many...and violent crime still increases. So we need a laser-like approach. I think this office will help do that. But this is not a soft approach. We're not asking that this body shift away from tough law enforcement. In fact, I think tough law enforcement combined with prevention is incredibly key as is exemplified by what is going on in New York City. It is miraculous. And quite frankly, the murder rate in Omaha is greater per capita than it is in New York. That's an abomination. That's something we should all be...just be sick about that our major city in our state has a murder rate per capita greater than New York City. So the Office of Violence Prevention is important. And I see Senator Mello over there, and Senator Mello has brought bills to us regarding graffiti, and Senator Nordquist. And we need to...as has been done in New York very effectively, we need to eradicate public places of this sort of graffiti, which is this tagging by gangs. All this needs to stop now in our state and in our city. We cannot ever grow as a state or a city, and certainly Omaha cannot grow as a great city if this crime persists. I think the Office of Violence Prevention is an incredibly important element to this. The transfer of the cash funds...I know I talked to Senator Council about this and I know Senator Pirsch is very, very active in the Community Corrections Council. I am convinced, in talking to the Fiscal Office and to the Governor's Office and others involved here, that the Community Corrections Council will have adequate funds this year to deal with their data collection responsibilities. And with that, Mr. President, I would urge the adoption of AM1124 so that we can get this thing started now and stop the shooting now this summer, now. It has to stop. The state has an incredible responsibility to be a partner in this. This cannot continue. It has gone on too long. It must stop now. Thank you, Mr. President. [LB63]

SENATOR ROBERT: Thank you, Senator Ashford. Members, you have heard the opening to AM1124 to LB63. (Visitors introduced.) Returning to discussion. Senators wishing to speak: Friend and Pirsch. Senator Friend, you're recognized. [LB63]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. As Senator Ashford pointed out, the original thought process was that \$450,000 was going to be transferred from General Fund. The change here, one of the changes here goes \$100,000 to General Fund, \$350,000 as a transfer from the Community Corrections Uniform Data Analysis Cash Fund to the Violence Prevention Cash Fund. There's another thing that this language does, and it came to me on General File. It happened to be from the Department of Motor Vehicles and it relates to the suspension of driver's licenses. In reference to the suspension of driving privileges in the amendment that we adopted, in order for that suspension to be transmitted to the DMV via the court's abstracting process, there must be specific statutory authority in LB63. This amendment also includes that specific statutory authority. And it is on page 3 of the amendment, line 8 on page 3, line 26, after the period insert: A copy of an abstract to the court's conviction, including adjudication of a juvenile, shall be transmitted to the director

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pursuant to Section 60-497.01, 60-497.04. That's also what the amendment does. Senator Ashford did an excellent job of pointing out, and he also sent out a little bit of information, as to why the crime prevention pieces are in here. Now, if we're not going to transfer...we know that there's a financial and fiscal reality. I just talked about that. We sought...we, I should say Senator Ashford and I, in our grand planning I guess, sought \$450,000 out of the General Fund. But as I've railed on spending over and over again I've realized that the fiscal reality...and even if it's important to me, the fiscal reality would not permit that. Where do you go? Senator Ashford has been working on this. A transfer from the community...I'd like to hear a good argument, by the way, that a transfer from the Community Convictions (sic) Uniform Data Analysis Cash Fund is not a good idea to the Violence Prevention Cash Fund, which is what we're creating. And let me go back to the very beginning, again, real quick and then I'll finish. The argument would be, Friend, that's not enough. It's never going to be enough, right? I've made that argument. It's never going to be enough for schools. It's never going to be enough for behavioral health. It's never going to be enough for violence prevention. I beg to differ. You put money in consultants' hands, and the type of consultants that I'm looking at, the Boys and Girls Clubs of the Midlands, we're not talking about taking a bunch of gang members, dropping them on the streets, and trying to convince these guys in the hood that it's a good idea not to do this stuff anymore. We're talking about people who are educated in dealing with gang intervention through targeted outreach. We're talking about people who are educated in dealing with truancy, they have pilot programs created. We're talking about people who are educated in dealing with career launch initiatives. That's what we're seeking. And we have numbers that indicate that some of these things have been quite successful. So is this the best solution? Is there enough money? Is it the best solution? I think from a crime prevention standpoint, what Senator Ashford has really, really advocated for, I think it is the best solution. Is it enough money? I really don't know. [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR FRIEND: I wish I knew. But as Senator Ashford has pointed out in the past, it's a start. Now, others on the floor might think differently. Be anxious to hear that discussion. That's all I'd have right now, Mr. President. Thank you. [LB63]

SENATOR ROBERT: Thank you, Senator Friend. Senator Pirsch, you're recognized. [LB63]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. Just some comments. What the amendment proposes here is to transfer from one existing fund to this newly created fund an amount, \$350,000. And the fund it's taking it from is the Community Corrections Uniform Data Analysis Cash Fund. I am somewhat concerned about that because, again, I and Senator Council serve on that, and for the reasons that I just mentioned in the last time I spoke about the work of the Community Corrections



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Council, you know the old adage, bad information in equals bad product. And as we are looking toward expanding the role of the Community Corrections Council so that we can hopefully alleviate the prison overcrowding problem and make informed decisions, we want to make sure that we have good data, that we are...in terms of who we are targeting and the facts behind that. And so I am concerned about that coming from the fund, especially when, in my opinion, a much more preferable source of funding exists. I believe instead of shifting from one taxpayer-funded fund that is vital to this fund that we should, rather than put the burden on the taxpayers to fund the cost of crime, we should internalize the cost of crime to actually the criminals themselves. And we can do that through a source of funding by just simply adding, I would say, a single dollar to the court costs of those people who go before the various courts in the state of Nebraska, offenders. Right now we already utilize that system and its offenders pay court costs to a certain level, but it, in no way, shape or form, approximates the actual costs, the burden that they're placing on the system by committing their crime. And so I think a preferable way to structure this would have been to actually impose \$1 additional costs. And I think costs right now are somewhere around the area of \$44, \$45. Throwing another \$1 onto it is not...would not be a difficulty, and they can be waived by the court if it is brought to their attention by the offender that they don't have the ability to come up with costs, those costs. So I think that would have been a preferable way to structure this deal and it would have easily covered the amount that's being sought here which, as they are saying, is sorely needed for intervention, prevention, the Office of Violence Prevention. You know, I think that this is, obviously, somewhere we have to focus on, a preventative-type of approach and intervention. I am concerned. I want to make sure that the structure that we're setting up is not administratively heavy, that the dollars are actually reaching the areas that the preventative measures that we're attempting to get to. We should be funding assets in the community, as some have mentioned, in the Boys and Girls Club; in, when we're talking about Omaha, the Hope Center. These are already existing assets. And I hope that this Office of Violence Prevention does not set about to reinvent the wheel but utilizes the strengths of the community existing assets, too, and funds those, and that we do not...that the Office of Violence Prevention... [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR PIRSCH: ...does not become administratively heavy. Again, you know, we can...I think it's appropriate to do this, but at the same time I think that also families and communities are going to have to come together to play a pivotal role in helping to prevent violence in addition to the work that we in government do. And so I hope that that's encouraged well. But, again, my fear is I don't...I would prefer not to use the money that comes from one taxpayer source to another, you know, just a shifting of taxpayer money when we can actually internalize the cost of this violence prevention to the offenders themselves, to the criminals themselves. Thank you very much. [LB63]

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

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator Ashford, would you yield for a moment please? [LB63]

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

SENATOR ASHFORD: Yes, sir. [LB63]

SENATOR HARMS: Senator Ashford, as you know I'm very supportive of what you're doing here and, when we had the first discussion, was actively supporting it. I just have one question I'd like to ask. In regard to the \$350,000 that we're going to be transferring over, how far will that actually take this organization? And then what is the long-term commitment for the state and that sort of thing so we have a better idea what we're doing here and what we're going into? [LB63]

SENATOR ASHFORD: Great question. And the \$350,000 is the number that came from discussions that I had with groups that are already...two or three groups, and they're really two or three key groups in Omaha that are dealing with gang activity right now, and what they would need this summer and fall to continue with programs that are literally pulling kids off the street and putting them into safe places. It is, without getting an actual budget from these people, the \$350,000 is not too much money, it's not more than is needed, but it is enough to continue with these programs. In the long term the idea would be that this money not come out of the cash fund, obviously, in the Data Collection Cash Fund. There's \$1,600,000 unexpended balance in that fund and we will reauthorize \$90,000 back into that fund. They have plenty of money for this year. But you're right that it can't continue to come out of this fund. So another source of funding will have to be looked at. But more than that I think we also need to look at private money in the communities that need these services as well as grants. I mean, the idea...there are grants. There are significant grants available now for prevention and diversion programs, Senator Harms. And hopefully this will kick-start efforts to get that money into our state and get it working. But I'm under no illusion that somehow these cash funds will continue, you know, far into the future. We're going to have to find other creative ways to finance this project. I think also we have to prove up. We have to prove up. We have to demonstrate to...I have to demonstrate, and my friend and I both, as cosponsors, have to identify is this approach working and then make our case. But I'm under no illusion that this fund will be there into the future. [LB63]

SENATOR HARMS: Yeah. That's what I was wanting to talk a little bit about. I think that we're going to have to look at a long-term plan for this if we're actually going to deal with the issue and making sure that we look at our budget, making sure that we are able to move from the cash to general budget. I think that's going to have to happen, you know,

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in order for us to do this. And so I hope that as you start to prepare this that you will start looking at where this is going to take us, what kind of long-range plan do you have for this. And then when you do the evaluation, hopefully will be able to show that you've been successful. Because I think we have to do something with this. We cannot tolerate anymore what's happening in Omaha. It's just going to move out from Omaha to other places and it already is, and I think we have to take a strong stand here to do this. So I would really urge you to support this because I think it's the right amendment to a very good bill. So thank you, Mr. President. [LB63]

SENATOR ROBERT: Thank you, Senator Harms. Those wishing to speak: Senators Janssen, Friend, Price, Council, and Pirsch. Senator Janssen, you're recognized. [LB63]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. As I was driving in, actually riding in this morning, I was reading an article about LB63 and actually I'd like if Senator Ashford would at least listen. I know you normally hang on every word when I'm speaking, but I (laughter) would...I appreciate that. At least listen to this. I want to read a little bit of what I read this morning and get your response to it. I'll yield the balance of my time if I have any left after that. And it was in the World-Herald's Op-Ed piece this morning written by T. Hank Robinson. He's the director...I assume a he, I don't know the individual, the writer is the director of Juvenile Justice Institute at the University of Nebraska-Omaha. He is a professor of UNO School of Criminology and Criminal Justice. And it deals with LB63 and it says: Tougher stance on crime critical but at what cost to Nebraska? And I'm paraphrasing quite a bit in here, but the 44-page bill would change misdemeanors to felonies, set mandatory prison terms for gun-related offenses, make a number of Nebraska penalties comparable to those of other states, and even would criminalize certain graffiti offenses as felonies. All true, I believe. The stated purpose of this bill is to put more offenders in state prison and keep them there longer. The question for policymakers is whether the benefits of such legislation will merit such cost. In his estimate it says: It is conservatively estimated that the penalty provisions of LB63 would add an additional \$15 million to \$20 million to Nebraska's biennial prison budget. Now, I didn't see that in the fiscal note. This is, again, from here: Construction of a new prison facility is inevitable. Ten years ago, prior to the construction of the prison in Tecumseh, the annual budget for the Department of Correctional Services was roughly half of what it is today. Today at nearly \$300 million biennium, one has to wonder what would be lost if Nebraskans are paying \$600 million per biennium for incarceration costs in eight to ten year from now. Our constituents demand a response to the thuggery and gun violence making headlines around the state, but not at any cost. A longer sentence may keep offenders locked away from communities, but there's little evidence that is to dissuade them from committing crimes in the first place and that's what the constituents really want. Senator Ashford, I'll just yield the balance of my time to you. [LB63]

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SENATOR ROBERT: Senator Ashford, 2:30. [LB63]

SENATOR ASHFORD: Yeah, Senator Janssen, thank you very much for addressing that issue. And you're correct. Hank Robinson is an individual I've been working with for two years on this project and on diversion and prevention. And I believe, though he left out a significant part of at least the discussions we've had, which is if you don't have prevention, if you don't have initiatives to draw people away from violent crime, you're going to have an increased prison population, that is what he and I have been talking about almost consistently weekly in my office. So I think he gave us half a loaf in that what he...what he wrote. He's not necessarily wrong, but he gave us half a loaf. Because if you don't divert, if you don't prevent, you're going to have those kinds of numbers. The number he gave to us in the Judiciary Committee for enhanced penalties was in the neighborhood of \$7 million, not \$20 million, but...and he gave us...and it's not necessary to quibble about what Mr. Robinson said because he's not here. But the point, the point is this: Again, 60 percent of our offenders incarcerated in this state, costing around \$27,000, \$28,000, \$30,000 for an adult offender, are nonviolent offenders. If there's going to be a new prison built it's because we don't have adequate community corrections yet, though we're getting there, and Senator Council and Senator Pirsch are working diligently on that issue. But we have to have...we have to have diversion, we have to have prevention... [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR ASHFORD: ...or we will definitely, without question, there will be a new prison have to be...you're right, we will be paying for a new prison unless...and I think the people are with us. I think the citizens are with us. They want us to come up with a plan to reduce the prison population but not at the cost of safety and protection. And that's why violent offenders need to be treated in a way that they are taken away from society for a period of time, and I believe sincerely in that. And Senator Council, the rest of the Judiciary Committee were working towards a commission on sentencing over the interim and into the next year that will address these issues. But I appreciate, Senator Janssen, you raising the issue. Thank you. [LB63]

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

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. A couple of quick points or key points. Senator Pirsch brought up some interesting...started in on some interesting dialogue. One of the things that had been talked about was exactly what he was...what he was referring to. Under the circumstances, didn't think that that was workable. You crank up court fees again...we've seen where the fee discussion goes out here. It's a difficult one right now and it should be. This is a one-time appropriation. This appropriation from the Community Corrections Uniform Data

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Analysis Cash Fund is a one-time appropriation. Senator Ashford and I were talking about this morning that this is not...this is not something you lean on for the future. The only General Fund appropriation is \$100,000. So the future of the Violence Prevention Cash Fund is kind of like the future of TEEOSA. Good luck. Throw the ball in the air and try to hit it, because we really have no idea what the future holds for this. But it's a start and it's a chance. By the way, the community...for the Community Corrections Uniform Data Analysis Cash Fund, there's going to be extra spending authority associated with that. That was part of this discussion and that's part of the reason we got to where we are going to be. And, by the way, there's still going to be \$1.2 million, approximately, in that fund after this transfer, which replenishes itself every year. I'm glad Senator Janssen brought up that Op-Ed, the benefits and does it merit the cost. Yes. Why would I be standing up here and doing this if I didn't feel like it did? I said this during the hearing. That particular person, very intelligent, well-read, is actually, you know, he's been down the pike. He knows what he's talking about. The problem is, he's an academician. He doesn't have the job that we have. We have increased penalties here that are a deterrent. We have increased penalties in here that will remove people from the streets who shouldn't be out in our cities and out on the streets terrorizing people. What is government's job? What is our job? My job is not to sit in a room somewhere and try to theorize on what all the problems are with life. My job is to go back to my constituency and tell them, yeah, we did it, we did this. And I can't even get elected again so it doesn't matter to me, right? But I can go back to my constituency and say my philosophy of government is simple--government's job is to protect its citizens. That's the main thing for a federal government and a state government. So they can write all of those Op-Eds they want, they can come out of any institution of higher education that they wanted to come out of, but they don't have to walk the walk. This is the walk and this is the talk and this is reality. And the reality is we could only come up with \$450,000. He's been busting his hump trying to find it. So don't tell me on the other end that incarcerating people that we're afraid of in our society is not a good idea because I will go back and tell those constituents myself to their face, even if I were going to run for Governor or mayor or anything else, I'd tell them to their face, yeah, we increased your taxes but we put these people away to do it... [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR FRIEND: ...or that was the reason that we did it. I will tell them that because that's what they want us to do. Op-Ed pieces like that are narrowly focused. They're not dealing with what people...they're not dealing with my next-door neighbor. They're not dealing with the guy that lives up on Military, up near me, who just had his house broken into and the old man was body slammed to the floor. They're not dealing with those folks. We are. They send us the e-mails. They call us and they call the police departments. (Laugh) We're taking action here. Is it the right action? We have to make that decision. Thank you, Mr. President. [LB63]

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SENATOR ROBERT: Thank you, Senator Friend. Senator Price, you're recognized. [LB63]

SENATOR PRICE: Thank you, Mr. President, members of the body. I am somewhat conflicted by what we have before us, so I'm going to talk on two things. One question I have is, will felons be in a position to be recipients of state dollars? I have serious reservations with that. But in balance to that, I would have you know sometimes I'm not sure whether life imitates art or art imitates life. But we do have a case where an individual who stole over \$2.5 million in 26 countries became a consultant to the FBI. They've immortalized that in the movie Catch Me If You Can, and Frank Abagnale, Jr., you know, and he spent a year in foreign prison. He was sentenced to 12 years in prison here in the United States and served almost 5 of them, and then he went to work as a consultant for the FBI, you know, and now is an author of four books and continues to do well. So again, I am conflicted because I understand what we're trying to do here with the various attempts to curb this gang violence and that they either just don't get information from people willing if you're the man, so to speak. But I trust that what Senator Ashford and everybody is trying to do is the right thing and I believe that we should give them the opportunity to prove it out before we just dash cold water on it and are yet left standing where we started the discussion, no better off. And with that, I'd yield the balance of my time to Senator Ashford, if he would like it. [LB63]

SENATOR ROBERT: Senator Ashford, 3 minutes. [LB63]

SENATOR ASHFORD: Thanks, Senator Price, and it gives me an opportunity to address the point that you made on General File and you're making it again on Select File, and that's the point about whether the state ought to pay ex-offenders to work in gang intervention. Let me tell you about my experience in...and a lot of that flows from when we took this issue on in the spring and we went to Chicago and we viewed the CeaseFire Program, and that is an ex-offender based program. That is one of the only ones that exists in the country. Most of them are police-centered and they flow from the David Kennedy model in Boston. When I asked the police commissioner in New York, Commissioner Kelly, who is one of the...(laugh) he's a tough guy, clearly, and I asked him about, you know, that kind of strategy and he was opposed to it and he said it doesn't work in his city. It's not really...it's not about, in my view, I don't think any state money is going to go pay ex-offenders. I think the issue is how does the Omaha Police Division, how does the Fremont Police Department, how do other police departments deal with offenders...or with gang-related activity and with violent crime and illegal guns, because that's what we're talking about here. My sense is that the model, the Boston model, the New York model, which has seen a reduction in 30 percent in murders which is not an ex-offender model, is probably the model most likely, I would say 100 percent certain, in talking to the Omaha Police Division, that's the model that they would adopt if they adopted any model, and I hope they do, to deal with this problem. How much time do I have, Mr. President? [LB63]

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SENATOR ROBERT: One minute, twenty seconds. [LB63]

SENATOR ASHFORD: Okay, just very briefly, in New York, which was really a great...as I've told some of my colleagues, it was my best day ever. (Laugh) I mean I had more...I was energized. These people are both compassionate on one end, they want to prevent crime but, boy, when a crime is committed or about to be committed, their compassion goes out the window. There is no more compassion. It's protecting the public. And this police commissioner said, yeah, we're going to try to prevent it but, if we can't, we're going to come down hard. That's, I think, the way we ought to go and it means police on the street, it means follow-up, it means managing police activities, it means technology. And we talked about sound technology. That's the stuff we need to have. We need to...and to Senator Friend's point, the number one issue, at least in my city, is violent crime. I think our citizens are willing to spend taxpayer dollars and more taxpayer dollars, if necessary, to stop violent crime or at least reduce it. And so I think you raise a good point. My research into this area seems that most cities are not adopting the CeaseFire model. They're adopting the New York-Boston-Cincinnati model. But again, that would be up to local law enforcement and not the state, nor would the state, I'm sure, be actively involved in paying... [LB63]

SENATOR ROBERT: Time. [LB63]

SENATOR ASHFORD: ...ex-offenders. Thank you, Senator. [LB63]

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

SENATOR COUNCIL: Yes, thank you, Mr. President. Before I address AM1124, I want to correct some information that was...and some statements that were made during the discussion of the Work Ethic Camp and Senator Carlson just asking some questions. If you're assigned to the Work Ethic Camp, the amount that you earn is dependent upon what step in the five-step educational process you're in and what they earn is a daily rate and it is so low that they do not withhold any taxes and those monies are deposited in a fund that are used by the inmates for commissary items, support, family support issues, things like that. If an inmate is assigned to a detail job outside the penitentiary, the same holds true, that they are paid one of those daily rates that range from \$1.21 to \$3.78 per day and they earn so little that there's no income tax withholding and the balance is deposited into their account. The difference is people on work release, and that was the statement that I was making, people on work release generally hold regular jobs at market wages. So if they're at the Burger King or the McDonald's, they're paid whatever the market rate is paying at that time. And out of their earnings, they pay \$300 per month back to the institution as maintenance fees. So I hope that answers some of those questions. But getting to AM1124, and I've listened to the discussion and I, too,

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am a bit conflicted. Because serving on the Community Corrections Council, I have heard the plans with regard to technology enhancements and data improvements and the money to be used from the Uniform Data Fund. But I'm also very, very concerned about passing a bill that does not have a strong prevention and intervention component, and developing the necessary funding to provide that component of this piece of legislation. And I've heard the discussion about what taxpayers should pay for. I think that this is the kind of program that should be funded from the General Fund because it addresses all of our constituencies' concerns about crime. And when we start looking at the criminal justice policy in this state, you know, we need to start developing criminal justice policy around issues of who we're mad at versus who we're scared of. And we've talked about the violent criminals and they certainly fall into the category of who we are scared of. But we're enhancing penalties, we're establishing penalties for offenses committed by people and we're just mad at them for what they're doing. We're not necessarily scared of them. So we need to take...be cognizant of that. When we're talking about the source of the funds for a program like this there's been a discussion of the court fees, and I think people need to understand there's a difference between a civil court fee and a criminal court fee. You know, if you're charged with a criminal offense and you're convicted and you are ordered to pay court costs and fees, those are different from the costs and fees that one pays to initiate a civil action. If...I believe that it would be appropriate to add \$1 or more to the criminal court costs to fund a program... [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR COUNCIL: ...such as this program because that's not a program that affects a person's ability to seek justice. It is a part of the administration of justice in the criminal context. So I would urge that. And with regard to the Uniform Data Fund, I suspect that I'm going to vote in favor of this one-time transfer out of that fund because associated with it in the A bill is an increase in the spending authority for the Community Corrections Council to kind of make up for it. It doesn't totally make up, it's only \$90,000 of it, but with the understanding that is a one-time transfer and that it's my understanding that there will be enough funds remaining to enable Community Corrections Council to go forward with the technology advancements and improvements that's necessary for that to function. [LB63]

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

SENATOR PIRSCH: Well, thank you, Mr. President, members of the body. And I just appreciate many of Senator Council's remarks. I think she's quite right when she says there should be a strong prevention/intervention component that occurs as a result of this bill, embedded in this bill. And so I hope...and, you know, we can certainly give some kind of general directions in setting up this council, but what really is going to



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matter is what happens when the rubber hits the road in how this is administered. And so, in so doing, I want to, you know, just make sure and clear on the record we are not looking to have an administratively...I'm sorry, the administrator of this program to be...substantial costs in terms of administering this program. We want to pass these along to those assets that have proven in the communities that are high gun violence, that have proven that they can intervene and make a difference in violence prevention. And so I hope that that's stressed by this Legislature in bringing this forward. Again, I would...I agree with Senator Council, too, that I think it is appropriate to put that \$1 court cost, to internalize the costs of crime, not on society and once again revictimize society, but rather put it as a cost of doing business, so to speak, on the criminal in committing crime. I think that's appropriate. What these monies, what these funds are going to be used for is preventative and intervention type of purposes. And so, you know, I think arguments have been brought in the past that if it deals with punitive or with those type of things, don't apply here. Here it is in a preventative type of approach, so I can't think of one more appropriate usage of these criminal court costs. And so...and just with respect to I think a comment was made on the floor earlier that, well, we can't envision utilizing that source of funding, that we have to use the taxpayer's as opposed to use the perpetrator's own money through court costs, and I might again remind you if a judge determines that a person is too poor...a offender is too poor to afford those, the judge always has in every case the ability to waive or dismiss those court costs. But I can tell you, as a prosecutor for a decade, those are not fees that are creating substantial or even insubstantial problems in the lives of offenders. And so I think that it is an appropriate source of funding. I wish that things had been structured that way and perhaps looking forward into the future that will be the direction to go. And so with respect to that source of funding, we are already doing this year, I might remind the body, we are already tapping that, those court costs, to fund other important things for the state and that's in more than one bill. And so I don't think that there's a more appropriate usage of those court costs, those surcharges than this. I also think that it's appropriate, I might add, to use those court costs, and I will be...I've come forward with a bill to say that the victims of crime should also have their injuries paid for by the criminals and not the taxpayers, for helping them to deal with their funeral costs, the victims and families of victims, the costs of mental health treatment, the costs of medical treatment going to the hospitals. Because we are essentially revictimizing victims... [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR PIRSCH: ...again by making them...not only did they suffer the crime but then society, rather, the government is making the victims pay for their cost of their injuries when we can instead put that cost, as it rightly should be, on the actual criminal who perpetrated those injuries. And so...or who are...and so I think that that is also inappropriate. I do have a bill in the works this year and that does call for that and I hope that that gets attention going forward. So thank you very much. [LB63]

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

SENATOR NANTKES: Thank you, Mr. President. Good morning, colleagues. This is, I think, a shining example of how interests and votes and ideologies shift within this body and, luckily enough, we're serving in this unique Nebraska Unicameral Legislature and so we're not beholden to party labels or ideologies in that regard. And I rise in support, colleagues, of comments made by my friend Senator Janssen and Senator Friend, which a lot of times we're on the opposite sides of an issue. But I think the points that they brought forth this morning have merit and deserve connecting of the dots. As Senator Janssen noted, he's right to review the data on costs and other studies that expertise...experts within the field of criminal justice can provide for us. And that should be the kind of data that we rely on to influence our dialogue and to influence our decision. And unless we are going to have serious problems with the credibility or methodology of that information as it's presented to us or we find additional competing data from a credible source that maybe has a different conclusion, that is the type of information we should be utilizing in crafting our criminal justice policy, our water policy, our educational policy, what have you. We should be utilizing expertise from experts in the field, on the front line, taking a broad view of these issues. And with all due respect to Senator Price, those are much, much more helpful in terms of crafting our dialogue rather than relying on Catch Me If You Can or any other movie. So I think that we have to be very careful about our sources. But as Senator Friend said, and he's right, we can reject empirical data and we have a policy choice to make a political decision in regards to this legislation or any legislation. I generally would be hesitant to reject empirical data again unless I question the methodology or the source or the credibility. But if he chooses to do so on a purely political basis, that is his right and each of our right. But let's be clear. As Senator Ashford noted in discussing the costs when questioned by Senator Janssen, the best way that we can get tough on crime is providing educational opportunity to all of our citizenry, providing access to critical human services like basic healthcare, access to mental health treatment, access to substance abuse treatment, and at the end of the day have real opportunities, quality jobs for our citizens to engage in. Senator Hansen has been talking about this as well. That is, in fact, how we get tough on crime rather than just increasing, ever-increasing criminal penalties which the empirical data shows us that we can neither afford in terms of our overall budgetary bottom line and is circumspect at best in terms of its effectiveness in preventing violent crime or crime rates and statistics in general. And I think that, colleagues, what you have to do is you have to look at a bill as a whole and I think there's always going to be pieces that are more attractive and that individual senators can find reasons to support and things that they have serious questions about. But I think when, you know, we look at the bill as a whole, I think the committee has worked very diligently to try and provide a first step in addressing violent crime, not only in Omaha but across our state, and I think it's just that--a first step. And I'm hopeful that the committee and others like

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Senator Friend, who have shown such a great passion for these issues, will continue to look at... [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR NANTKES: ...the overall structure of our sentencing guidelines, of our prison needs now and into the future, and other states' innovative approaches to really helping...to really help address the need for these kind of penalties at all but, rather, that focus on prevention and intervention. And, you know, as a whole, again, I rise in support of this but I think that we have to be really clear, too, that, you know, yes, there are some components in here which tries to increase the penalties for very violent criminals and criminal offenses, but we're also creating a felony for a subsequent abuse of graffiti, of utilizing spray paint. And I'm not...that's not to diminish the public policy concerns that many concerned neighborhoods have in regards to the discourage of graffiti in their areas, but, colleagues, we have to look at this as a whole and is that really a reason to increase... [LB63]

SENATOR ROBERT: Time. [LB63]

SENATOR NANTKES: ...taxes down the road if we need to? Thank you, Mr. President. [LB63]

SENATOR ROBERT: Thank you, Senator Nantkes. (Visitors introduced.) Returning to discussion on AM1124 to LB63, senators wishing to speak: Senators Gay and Lautenbaugh. Senator Gay, you're recognized. [LB63]

SENATOR GAY: Thank you, Mr. President. I've been listening to the discussion a little bit and Senator Council made some comments about the people we're mad at versus scared of. And I guess, you know, I look at this thing too. Senator Friend handed out a sheet of what we've done and it's on that amendment, AM212. This is a lot of changes to the code. I think most are good. The one thing she had talked about, and I'd like to ask Senator Council a question, if she'd yield. [LB63]

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

SENATOR COUNCIL: Yes, Mr. President. [LB63]

SENATOR GAY: Senator Council, I'm like you, I'm a little bit interested in how the prevention and intervention works. We have some different things. Senator Ashford handed out a sheet of what Boys and Girls Club is doing. And at some point I'm concerned we have too many people trying to do things and it's not that focused. What is your impression of what's happening right now with intervention and prevention and the measurement of those programs? [LB63]

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SENATOR COUNCIL: I think there's a lot of coordination occurring, quite frankly, Senator Gay, something that I find to be very encouraging. One of the groups at the forefront of the prevention and intervention effort is the North Omaha Empowerment Network and they bring to the table all of the entities that are addressing the various issues that are set forth in the covenant, and I know that it's the intent for there to be either more collaboration and coordination of the delivery of these services to young people. But I think with regard to one of the primary components and what I think will get priority in terms of grant applications will be those programs that are directly addressing these individuals where they are out on the streets with the intervention aspect. And it's my understanding, and Senator Ashford can correct me if I'm wrong, that a significant focus will be on that intervention component, getting to those young people who are out there in gangs now. The prevention component will be addressed by agencies like the Boys and Girls Club that you have the letter from, and that's to keep kids from getting involved in the first instance. And I can tell you that there is quite a bit of coordination and collaboration that's occurring currently with the development of the programs, including some involvement of the reentry...the offender reentry programs that have been established in the community. So I don't think you're going to see duplication, a lot of duplication of effort, if that's the concern. I think you're going to see a really focused effort to address both the prevention component and the intervention component on a collaborative basis. [LB63]

SENATOR GAY: All right. Thank you. Well, I wanted your opinion because it is important. What you're asking us to do is say reallocate these funds. Senator Ashford, if you'd yield to a question. [LB63]

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

SENATOR ASHFORD: Yes. [LB63]

SENATOR GAY: Thanks, Senator. You're asking this body to reallocate these funds and I know you put a lot of...and I'm supportive, don't...you've put time and effort in and that's why I asked Senator Council what her view is. That's important to me as well to make a decision. But on your amendment here where you're taking...I just had question. Currently, the Community Corrections Uniform Analysis Cash Fund, you wanted to switch that to the Violence Prevention Cash Fund. [LB63]

SENATOR ASHFORD: A small portion of it but... [LB63]

SENATOR GAY: \$350,000. [LB63]

SENATOR ASHFORD: Yeah. [LB63]

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SENATOR GAY: What is that used for now, though, the Uniform Data Analysis Fund? [LB63]

SENATOR ASHFORD: It's for gathering data. I believe there's \$1,600,000 in the fund right now... [LB63]

SENATOR GAY: So you're taking a portion. [LB63]

SENATOR ASHFORD: ...and it expands by about \$440,000 a year, and we're taking a one-year...portion of the one year. It's used for data collection... [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR ASHFORD: ...data collection for, you know, analyzing the...I believe the centers, the reporting centers that are located throughout, I think four or five reporting centers are located throughout the state and I think it's used in determining the effectiveness of those centers. But my understanding, it will not...that this shift this year will not affect the operation of that data collection effort, so. [LB63]

SENATOR GAY: Okay. All right. I'm running out of time but I'm going to hit my light again and I want to ask you about the measurement of these programs we're doing. I think that's important, we need to know, and I think some of the discussion I'm hearing is when we do this, what is the measurement, how are we going to say we've been successful or not, obviously, crime rates and violent crime and those things. But I think it's important and more and more we're going to need to do this, everybody. So I'll just wait till then, but I think that's a discussion we should have, and I'd just yield you my time on some of that so give you a heads up. [LB63]

SENATOR ROBERT: Time. Thank you, Senator Gay. Senator Gay, you may continue. [LB63]

SENATOR GAY: All right. That was my question, if Senator Ashford would yield to a question. [LB63]

SENATOR ASHFORD: I think, yes. [LB63]

SENATOR GAY: It's...anyway, but that would be it, Senator Ashford. [LB63]

SENATOR ASHFORD: Yeah, and that's a great question. [LB63]

SENATOR GAY: You want to go ahead and use as much...because it is important. If we're saying this and we're going to do this, and you've spent a lot of time, I'll commend you for that, but how do you measure your success if this works? [LB63]

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SENATOR ASHFORD: Well, and that is a great question. And let me just say, Senator Gay, you always ask this question and that's appropriate. On any program you've been consistent in asking about how do we analyze the success of these programs. And let me tell you what's happening, I think, in the area of criminal justice across the board and this was certainly talked a lot about in my trip to New York, which I will stop talking about, but it was a great (laugh) trip. But in any event, one of the key elements of any of these programmatically is that this be evidence-based; essentially, that the data that...the data that's being collected now by the Crime Commission is important; that what is done from a public policy perspective be evidence-based. Some of the criteria, certainly the reduction in the number of murder...the murder rate reduction, for example, in New York City has been reduced by 30 percent. That is one indicia. There are many, many others. For example, we have 800 young people, juveniles, every year going to the Douglas County Youth Center who have not committed any kind of violent act at all. They just have failed to appear on a warrant. You know, are we...can we reduce that number? Because that's a very expensive expense on the county. I think we have to develop, in this first year, we have to develop a set of criteria and then it has to be evidence-based. There's no way I can come back here and sell this program going forward unless it is. So I don't have all the indicia, all the criteria, but it must be evidence-based, it must be based on real things that are happening on the street. The other point, very quickly to your question to Senator Council, this is not a kind of a deal where we're going around funding a lot of nonprofits that do tangential work. We want to talk to those groups that are dealing with graffiti, those groups like the North Omaha Empowerment Network that are dealing with getting kids off the street and getting them into some other place. That some other place, those nonprofits that conduct those activities are good, but that's not the focus of this. This is to interdict, prevent violent activity and, to a great extent, by juveniles or reoffenders. That's where this focus is and there aren't a lot of nonprofits doing that. There are some and the black Empowerment Network is one, Boys Club is another, but they're very few in number. [LB63]

SENATOR GAY: Thank you, Senator Ashford. And just one follow-up question too. Senator Pirsch talked about crime victims and the reparation fund. Him and I have a bill we sponsor on the... [LB63]

SENATOR ASHFORD: Right. [LB63]

SENATOR GAY: And you've been helpful and I'm not that...but I do think that's something we need to look into. Probably there's no time yet this year and no vehicle to attach it to and I wouldn't want to do it here. That is in...well, maybe we could, but there's a lot of amendments to consider. But I do think that's important too. There are some...our crime victims' compensation fund is running low and... [LB63]

SENATOR ASHFORD: We...yeah. [LB63]

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SENATOR GAY: ...we need to look at those alternatives to do that. Because we keep targeting money here but sometimes on the victims we need to make sure. Senator Pirsch had brought that up just earlier and I just wanted to plant that seed again in your head, as Chairman of the committee. That's something we're more than happy to work with you on and I know you've been gracious to try to find a vehicle. But I think that's something that we need to do... [LB63]

SENATOR ASHFORD: Right. [LB63]

SENATOR GAY: ...next year for sure. [LB63]

SENATOR ASHFORD: Right. And I would say, Senator Gay, that should be a priority and the way that...and as I've mentioned on the floor before, Senator Pirsch... [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR ASHFORD: ...Pirsch's mother, Senator Pirsch before him created the fund and that it does need to be funded. Either we need to fund it or get rid of it, I mean, because we're giving a false promise by not having it funded. So I agree with you. [LB63]

SENATOR GAY: Well, I think where we're at now, with your help, we've got a better...a good solution that we can get that done. Thank you, Mr. President. [LB63]

SENATOR ROBERT: Thank you, Senator Gay and Senator Ashford. Seeing no other lights on, Senator Ashford, you're recognized to close on AM1124. [LB63]

SENATOR ASHFORD: And I would urge the adoption of this amendment. I just would want to make one point, a follow-up with what Senator Harms said, and he is absolutely correct. If we don't stop the violent crime in Omaha, it will start, and already has to some degree, but to exponentially grow outside of the Omaha area into other communities. That is what's happened in New York. That is what will happen in Omaha. That is what's will happen in Nebraska, there's absolutely no question about it. This is a statewide problem. Not only is it...does the impact on families and victims...and I know I've been to many victims' homes in my years working in that area in Omaha, and it is a moving experience, but it needs to stop. The idea of where does this money come from in the future, it will depend on how this evolves to some extent. But I want to make this point and this is the critical point that I'm trying to argue here, is that prevention/intervention should be part of the whole law enforcement, criminal justice response to violent crime and crime generally. It is not an outlier. It is not something out here that we bring in and kind of make it just something we do once in awhile. It is a part of the four-pronged attack: prevention, intervention, and enforcement, punishment where necessary but

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rehabilitation where appropriate. All those items are critical to an effective law enforcement system in the twenty-first century. It is not something that we take lightly. It is not an outlier. It is a critical part. And I think that LB63 recognizes that shift in thinking towards that more holistic effort to stop crime before it starts wherever we can. Thank you, Mr. President. I'd urge the adoption of AM1124. [LB63]

SENATOR ROBERT: Thank you, Senator Ashford. Members, you have heard the closing to AM1124 to LB63. Question is, shall AM1124 be adopted? All those in favor vote yea; opposed, vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB63]

CLERK: 41 ayes, 0 nays, Mr. President, on the adoption of Senator Ashford's amendment. [LB63]

SENATOR ROBERT: AM1124 is adopted. Yeah, announcements for the record, Mr. Clerk. [LB63]

CLERK: I do, Mr. President. A series of study resolutions: LR116, LR117, LR118 by Senator Adams; LR119, LR120, LR121 by Senator Avery; Senator McCoy, LR122; Senator Giese, LR123; all calling for interim studies, all will be referred to the Executive Board. Explanation of vote from Senator Cook (re LB542). Reference report referring certain gubernatorial appointees and a notice of hearing regarding confirmation hearing, Mr. President, by the Retirement Committee. (Legislative Journal pages 1424-1429.) [LR116 LR117 LR118 LR119 LR120 LR121 LR122 LR123 LB542]

Mr. President, the next amendment I have, Senator Ashford, I have AM1128 with a note, Senator, that you want to withdraw AM1128 and offer, as a substitute therefor, AM1337. (Legislative Journal page 1370.) [LB63]

SENATOR ASHFORD: Yes, thank you. And this is actually an amendment that was brought to me by Senator Nordquist and Senator Mello and it is just a slight change in the portion of Omaha's turn-back money that goes to tourism in the older section of the city, north and south Omaha. It simply would allow the city to allocate all or any portion of that money at their discretion to violence prevention activities. Again, this was brought to me by Senator Mello and it relates primarily to some of the concerns that...very valid concerns that he has about graffiti activity in south Omaha. Thank you. [LB63]

SENATOR ROBERT: Thank you, Senator Ashford. (Visitors introduced.) Members, you have heard the opening to AM1337 to LB63. Are there any members wishing to speak? Seeing none, Senator Ashford waives his opportunity to close. The question is, shall AM1337 be adopted on LB63? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB63]



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CLERK: 41 ayes, 0 nays, Mr. President, on the adoption of Senator Ashford's amendment. [LB63]

SENATOR ROBERT: AM1337 is adopted. [LB63]

CLERK: Mr. President, next amendment, Senator Pirsch, AM758, but I have a note you want to withdraw, Senator. [LB63]

SENATOR PIRSCH: Thank you, Mr. Clerk. Yes, I do wish to withdraw that at this time. [LB63]

CLERK: Mr. President, the next amendment, Senator Ashford, AM1308. (Legislative Journal page 1304.) [LB63]

SENATOR ROBERT: Senator Ashford, you're recognized to open on AM1308. [LB63]

SENATOR ASHFORD: Thank you, Mr. President, members. This is a fiscal issue. The LB63 on General File and as it was advanced included funding for the Office of Probation to do evaluations prior to placing juveniles who had not committed violent offenses in institutions like the Douglas County Youth Center. Probation came to me last week and indicated that there was going to be an expense to providing that evaluation. So what this amendment would do is moves that requirement that the Probation Office do that work one year and allow me some time to work with various groups and with Probation to see if we can get that funded in an appropriate way next year. Thank you. [LB63]

SENATOR ROBERT: Thank you, Senator Ashford. Members, you've heard the opening to AM1308. Are there members wishing to speak? Senator Council, you're recognized. [LB63]

SENATOR COUNCIL: Yes, thank you, Mr. President. I certainly understand the intent of the amendment and that's due to the funding of the Probation Office, but I think this is a critical issue because one of the things that I have observed in the handling of juveniles in the juvenile court system is the, I guess, overreliance on detention of individual juveniles when detention isn't necessary. And currently, there's no one to conduct the assessment of these individuals to determine whether they are at risk to anyone or whether detention is necessary. And if Senator Ashford would yield to a question, Senator Ashford, I'm going to...if you'll yield. [LB63]

SENATOR ASHFORD: (Microphone malfunction.) Yes, I am yielding. [LB63]

SENATOR ROBERT: Senator Ashford. [LB63]

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SENATOR ASHFORD: Thank you. [LB63]

SENATOR COUNCIL: It's my understanding that the Office of Probation had an individual who was performing these types of assessments pursuant to a grant, a federal grant that had been received, and that those grant funds have run out and they are no longer able to perform this function. But, however, they were having some success in performing the function and reducing the rate of detention... [LB63]

SENATOR ASHFORD: Yes. [LB63]

SENATOR COUNCIL: ...at the Douglas County...particularly the Douglas County Youth Facility. [LB63]

SENATOR ASHFORD: Yes, they are. They reduced, I think, from 250 to 140 or 130. It was a relatively significant reduction. [LB63]

SENATOR COUNCIL: Okay. Now and the purpose of the amendment, postponing the effective date, is that the Office of Probation doesn't have adequate funds in the appropriation to perform this. [LB63]

SENATOR ASHFORD: That's correct. [LB63]

SENATOR COUNCIL: Do we have a fiscal note associated with just this aspect of LB63? [LB63]

SENATOR ASHFORD: The...it's \$120,000 a year, is the amount that it would cost to do this assessment. [LB63]

SENATOR COUNCIL: And I just want the body, again, to appreciate, when juveniles are detained and they're detained for a lengthy period of time, while we talk about the cost of incarcerating adults and that figure more closely approximates \$31,000 a year, you can add at least another 40 percent when it comes to the cost of incarcerating a juvenile. And if we are detaining juveniles when they don't need to be detained, that \$120,000 that would be expended for the assessments, believe me, will be exhausted within a matter of months, particularly in light of the enhanced penalties that are found in LB63. I don't want this body to be shortsighted in terms of cutting programs or cutting costs, because we might be cutting off our noses to spite our face here. A couple of years ago, Douglas County Youth Center was bursting at the seams and it was over capacity by an unacceptable percentage. And if we don't have a process by which there can be a determination made as to whether a juvenile requires detention pending the adjudication of their particular matter, the cost to the...to particularly the county in terms of the county correctional... [LB63]

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SENATOR ROBERT: One minute. [LB63]

SENATOR COUNCIL: ...facility but the state overall is going to far exceed the \$120,000. And I don't know where we can find those funds, but for that reason, and I appreciate and kudos to the Probation Department for saying...for coming forward and saying we want to do it, we don't have enough money in our budget to do it, but I think this is one of those areas where we need to find some money in order to enable them to continue to provide this service or I can assure you we will pay far more than \$120,000 at the back end of the juvenile detention process. So I have a great deal of respect for my Judiciary Committee Chairman, but I can't support this amendment. [LB63]

SENATOR ROBERT: Thank you, Senator Council. Senator Nelson, you are recognized. [LB63]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to ask a question of Senator Ashford, please. [LB63]

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

SENATOR ASHFORD: Yes. [LB63]

SENATOR NELSON: Senator Ashford, on LB63, I'm looking at page 35, line 5 there, and that's your amendment here, as I understand it, in section...subsection (6) there, you're going to put this off for a year, July 1 of 2010. Is that correct? [LB63]

SENATOR ASHFORD: That's correct. [LB63]

SENATOR NELSON: I'm just curious, why would delivering a juvenile to a probation officer just to determine something, why would that cost \$120,000 a year? It couldn't be for transportation alone. Where are they coming up with a large figure like that? [LB63]

SENATOR ASHFORD: That's an excellent question, Senator Nelson. This is an evaluation. These, for the most part, these are juveniles who have not committed a significant criminal offense. They have been picked up on some sort of warrant or capias for failure to appear in many cases. What happens, what should happen is there's an evaluation by a probation officer before there's detention, and that evaluation includes calling the family, bringing the family in where appropriate, talking to school counselors, looking at the truancy record if there is one, and trying to see if there's any other place that young person can go. So it's a relatively comprehensive evaluation and it would...I'm convinced, by talking to Ellen Brokofsky from Probation, that it is rather labor-intensive. There are about 800 young people that go into DCYC, for example, in Douglas County every year without committing any real violent criminal action and that's

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where the effort is. [LB63]

SENATOR NELSON: So I'm just assuming then that it's going to require the full-time attention of maybe one or two probation officers... [LB63]

SENATOR ASHFORD: Right. [LB63]

SENATOR NELSON: ...and that means they probably are going to have to hire someone extra to accommodate... [LB63]

SENATOR ASHFORD: That, yes. [LB63]

SENATOR NELSON: All right. Thank you, Senator. That answers my question. Thank you, Mr. President. [LB63]

SENATOR ROBERT: Thank you, Senator Nelson, Senator Ashford. Senator Pirsch, you're recognized. [LB63]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Ashford would yield to a quick question. [LB63]

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

SENATOR ASHFORD: Sure. [LB63]

SENATOR PIRSCH: I'm sorry. This amendment just changes a date, correct? [LB63]

SENATOR ASHFORD: Yes. [LB63]

SENATOR PIRSCH: A date that is already embedded in the E&R amendment, is that correct, so that's already part of the bill then? [LB63]

SENATOR ASHFORD: Correct. [LB63]

SENATOR PIRSCH: Okay. And what is the underlying concept then embedded in the bill that this date kind of tags along with? You're changing a little bit about a date but what's the underlying concept that you were just speaking about with regard to probation...I'm sorry, parole rather. [LB63]

SENATOR ASHFORD: It's probation, but the underlying concept is that Senator Council is absolutely right and if this weren't my amendment I'd vote against it too. (Laughter) The underlying...the underlying concept is that, very seriously, is that if a young person, juvenile, spends any time, really the evidence is half a day, a few hours, that it could be

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dangerous to...harmful to that person, to that child, and that... [LB63]

SENATOR PIRSCH: Are we talking about people that are picked up for violation of probation,... [LB63]

SENATOR ASHFORD: Right. [LB63]

SENATOR PIRSCH: ...VOPs? Okay. [LB63]

SENATOR ASHFORD: Right, or failure to appear or some minor traffic offense or something that doesn't involve a violent act. [LB63]

SENATOR PIRSCH: Okay. And, okay, so a youth is picked up or a child, I don't want to say child, some minor, someone 18 years of age or younger is picked up and then how does this amendment...I mean, how does the underlying bill...how does this date pertain to the underlying bill then? [LB63]

SENATOR ASHFORD: Well, all what the date does is, because the Probation does not have the money or the manpower without the federal grant, Senator Council is absolutely right, this pushes back the effective date when these evaluations would occur for a year to allow...really to allow me some time, I guess, to try to find a way to fund this. [LB63]

SENATOR PIRSCH: And what is the underlying concept, though, that is embedded in the E&R amendment then? With respect to Probation under this bill then is changed. What is the concept there? [LB63]

SENATOR ASHFORD: I'm not sure about the E&R part of it. Maybe I can... [LB63]

SENATOR PIRSCH: Well, just what you were commenting on earlier about probation, certain individual minors being picked up. What's the... [LB63]

SENATOR ASHFORD: The concept is, is to get them evaluated before they're incarcerated. That's the overriding theme. [LB63]

SENATOR PIRSCH: Evaluated in what sense? Like mental health, chemical dependency? [LB63]

SENATOR ASHFORD: Basically, what they do is they sit the juvenile down and a lot of these cases involve, as you know because you did this for ten years, is that the, you know, the family doesn't get the young person to the juvenile court, they failure to appear. They... [LB63]

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SENATOR PIRSCH: This is within the context of juvenile court though, not in the... [LB63]

SENATOR ASHFORD: Right. It could be...it could be the county court for a violation as well, but a lot of it is juvenile court. [LB63]

SENATOR PIRSCH: Okay. So there's some sort of...a juvenile, a minor, who has been placed on probation, something has happened. There's been a...picked up on another charge, right, been brought down. Typically a violation of probation is...could be filed and so tell me what this bill does then with respect to... [LB63]

SENATOR ASHFORD: What it's primarily designed to do, Senator Pirsch, is to deal with cases where there's been a warrant issued... [LB63]

SENATOR PIRSCH: Uh-huh. [LB63]

SENATOR ASHFORD: ...for...because someone did not appear, primarily, violated probation, as you suggest, or whatever it is. And there are about 800 of those juveniles in Douglas County... [LB63]

SENATOR PIRSCH: Uh-huh. [LB63]

SENATOR ASHFORD: ...that fail to appear and that what would occur, instead of just placing them in DCYC, Probation would do some sort of evaluation, intake evaluation at that point, prior to the incarceration or detention, would be the better word. [LB63]

SENATOR ROBERT: One minute. [LB63]

SENATOR ASHFORD: And that's the underlying rationale. And that that's injurious to the child or the juvenile, the minor, to be placed at DCYC if they have not committed, you know, they have committed just a minor offense or just failed to appear, and that's the concern. [LB63]

SENATOR PIRSCH: Uh-huh. So, and I'm trying to understand. So a probation officer would do an evaluation,... [LB63]

SENATOR ASHFORD: Yes. [LB63]

SENATOR PIRSCH: ...not the court. Typically what happens if there is a capias or warrant issued for a juvenile for not showing up in court, is that what we're talking about here? [LB63]

SENATOR ASHFORD: Yes. [LB63]

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SENATOR PIRSCH: Then the judge would, at the same time, there's standardized type of bonds that were set... [LB63]

SENATOR ASHFORD: Right. [LB63]

SENATOR PIRSCH: ...that the parents could post to get out. [LB63]

SENATOR ASHFORD: Right. [LB63]

SENATOR PIRSCH: But we're talking about in those cases where a parent is not able to post that amount then and the child is in DCY? Or the judge... [LB63]

SENATOR ASHFORD: Would there be a bond in that case? Normally it would just be a capias would issue and the...and this is just a... [LB63]

SENATOR PIRSCH: Oh, just in juvenile court? [LB63]

SENATOR ASHFORD: Right. [LB63]

SENATOR PIRSCH: I wonder... [LB63]

SENATOR ASHFORD: And if it's in... [LB63]

SENATOR PIRSCH: I was going to say, if Senator Council might yield to a question. [LB63]

SENATOR ROBERT: Time. [LB63]

SENATOR PIRSCH: Oh, sorry. Thank you. [LB63]

SENATOR ROBERT: Thank you, Senator Pirsch. Senator Council, you're recognized. [LB63]

SENATOR COUNCIL: Yes, thank you, Mr. President. I was hoping that maybe I could clarify some of the matters here. It's my understanding that what we're talking about are arrest warrants for juveniles who haven't appeared in court, whether that's juvenile court or they've been charged in county court, but that's rarely the case. Children, if they're being treated as juveniles, they're going to be arrested for like minor in possession of alcohol, that's going to be in many cases processed in juvenile court, trespassing, disorderly conduct, those kinds of offenses where there's a warrant issued for the youngster's arrest or if they had a court appearance that they missed and if there's now a capias for their failure to appear, that under this process there is an assessment of

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that youngster performed by the Probation Department to see if it is more appropriate for that youngster to be released into the custody of their parent and it also provides that a bond may be requested. But in any event, it's to determine whether detention is necessary or required rather than releasing the child into the custody of their parent or some alternative to detention, and that's what the probation officer does as a part of that assessment. And I don't know about anyone here and their youngsters, but if my 15-year-old has a court appearance, nine times out of ten or ten times out of ten if they failed to appear it's because I failed to get them there. And we're finding what's happening and they're getting these capias and then the youngster is being placed in detention when they are no risk to themselves, they're no risk to the community, and quite frankly the party most responsible for not getting them to court is the parent. So this is to relieve the pressure on our juvenile detention facilities by placing youngsters in detention who don't need to be detained. And I think that there is value associated with continuing the program that has been started under the Probation Department with that federal grant. I think this one of those programs that the state should pick up, and that's why putting this off for a year at the same time that we're increasing penalties for juvenile offenses, we're going to see a demand on our juvenile detention facilities that I don't think we'll be able to handle and I firmly believe that the costs will far exceed the costs of continuing this assessment program. Thank you very much, Mr. President. [LB63]

SENATOR ROBERT: Thank you, Senator Council. Speaker Flood, you're recognized for an announcement. [LB63]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. Just to give you a heads up on this evening, we will not be having a late-night dinner available in the Capitol. We will not be working a late night. We could go as late as 6:00; we could go earlier than that. But I wanted to let you know for your planning purposes the rest of the day, this will not be a late night. I do not see us going past 6:00 p.m. and there will be no dinner. Thank you, Mr. President. []

SENATOR ROBERT: Thank you, Speaker Flood. Senator Pirsch, you're recognized. [LB63]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Council would yield to another series of questions. [LB63]

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

SENATOR COUNCIL: Yes, Mr. President. [LB63]

SENATOR PIRSCH: And thank you very much for explaining that. It is, so if I understand it, this is...it applies, this amendment or, I'm sorry, it's not the amendment,



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the underlying concept that's embedded in the E&R amendment applies both to juveniles in the juvenile court as well as minors in the adult court, so to speak, and it's a situation, any situation in which there is an active warrant. Is that correct? [LB63]

SENATOR COUNCIL: Yes. Correct. [LB63]

SENATOR PIRSCH: Is there any...and I'm just kind of trying to put my arms around it. Are there any constitutional issues? Typically, warrants are issued by the authority of a judge, correct? And so typically the matter has been that only a judge can cancel a warrant. How would that interplay in this concept then? [LB63]

SENATOR COUNCIL: Well, here, under the bill as reflected with the E&R amendments, the issue is the arrest has occurred. [LB63]

SENATOR PIRSCH: Okay. [LB63]

SENATOR COUNCIL: So the question is, is whether that youngster is placed in detention. And the language of the bill currently provides that if detention...if the assessment is made and that detention is not required, the juvenile may be released without bond if such release is in the best interest of the juvenile. The safety of the community is not at risk and the court that issued the warrant is notified that the juvenile has been taken into custody. [LB63]

SENATOR PIRSCH: Uh-huh. [LB63]

SENATOR COUNCIL: So there is, you know, communication with the courts. The fact of the matter is that this program has been operating under the grant and, to my knowledge, without any problems or concerns being expressed by either the juvenile court judges or the county court judges. [LB63]

SENATOR PIRSCH: Yeah. And when you say it's operating under the grants, is that in Nebraska or other jurisdictions or do you know where it's been... [LB63]

SENATOR COUNCIL: I don't know how many jurisdictions were awarded the grant but... [LB63]

SENATOR PIRSCH: But it's operated in Nebraska already, is that...? [LB63]

SENATOR COUNCIL: And the grant funds are ending. [LB63]

SENATOR PIRSCH: I see. And is this a recently enacted program and has it been... [LB63]

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SENATOR COUNCIL: Yes. [LB63]

SENATOR PIRSCH: ...embraced by the judges? My question just deals with is the concept of bond setting a uniquely or peculiarly judicial type of function such that we can delegate the legislative branch that function to, you know, to the probation officer, or are we invading the province of the courts in doing an activity that has traditionally been a judicial type of function, that is to say bond setting or determining under what conditions a person can be released? But you're telling me that this has already been operating for the last...how long? When did this program... [LB63]

SENATOR COUNCIL: Well, and but at least I know that it's been operating for...I think the grant was a one-year grant and that it has been operating under that grant. [LB63]

SENATOR PIRSCH: Okay. [LB63]

SENATOR COUNCIL: The Probation Department has had a great experience, would love to continue the program, but the budgeting constraints require that they not include it in their budget request. [LB63]

SENATOR PIRSCH: I see. Okay. So this is already up...this has already been operating, this. [LB63]

SENATOR COUNCIL: Yes. [LB63]

SENATOR PIRSCH: And so it puts the determination in the probation officer then whether or not to authorize release and, if so, under what conditions? [LB63]

SENATOR COUNCIL: That's my understanding, yes. [LB63]

SENATOR PIRSCH: Okay. So and I agree with you on your, you know, there are situations where it's just because the warrant was issued... [LB63]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: One minute. [LB63]

SENATOR PIRSCH: How do they sift out or how do we ensure that the probation officer exercises good judgment? So that, you know, some of the cases are minor, but there are cases where juveniles are going...often flights are, you know, we can only locate them once every couple years or so and involve maybe firearms or violence or something of that. You know, do we repose that trust in the probation officer, could you comment on that, that we do in a judge? [LB63]

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SENATOR COUNCIL: Well, and we impose that kind of trust and obligation on probation officers now. If we get, just like in presentence investigations in adult court, the probation officer is involved when a juvenile is being adjudicated with the Office of Juvenile Services,... [LB63]

SENATOR PIRSCH: Uh-huh. [LB63]

SENATOR COUNCIL: ...they get involved in making assessments as to whether or not probation is appropriate for a youngster. So the same types of factors would be taken into consideration in assessing... [LB63]

SENATOR CARLSON: Time. [LB63]

SENATOR COUNCIL: ...probation eligibility. [LB63]

SENATOR PIRSCH: Thank you. [LB63]

SENATOR CARLSON: Thank you, Senator Pirsch and Senator Council. Seeing no more lights, Senator Ashford, you're recognized to close on AM1308. [LB63]

SENATOR ASHFORD: I'd waive closing. [LB63]

SENATOR CARLSON: Senator Ashford waives closing. Question is, shall the amendment be adopted? All those in favor vote aye; those opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB63]

CLERK: 29 ayes, 1 nay, Mr. President, on the adoption of Senator Ashford's amendment. [LB63]

SENATOR CARLSON: The amendment is adopted. Mr. Clerk. [LB63]

CLERK: Senator Howard would move to amend, AM1360. (Legislative Journal page 1395.) [LB63]

SENATOR CARLSON: Senator Howard, you're recognized to open on AM1360. [LB63]

SENATOR HOWARD: Thank you, Mr. President and members of the body. This amendment is the result of cooperation among my office, the Attorney General's Office, and major players in the education community who also came forward and gave their support for this bill at the bill hearing. This bill came out of the Education Committee with no opposition, no neutral testimony. Thirteen individuals spoke in support and it was voted out unanimously with one member of the Education Committee absent. The individuals who spoke in support, and this is just...I will just name a few of these

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different groups: the Nebraska Council of School Administrators; RESPECT; the Community Domestic Violence Intervention Program; NSEA; again RESPECT; Nebraska Association of School Boards; LPS Student Advisory Board, two speakers; Nebraskans for Peace, again two speakers; Douglas County Domestic Violence Coordinating Council; Lincoln Public School. Dating violence, like domestic violence, is a pattern of controlling and abusive behaviors perpetrated by one person in a relationship with their partner. It can include verbal, emotional, physical, and sexual abuse. Dating violence, like domestic violence, knows no boundaries and crosses all lines of race and socioeconomic status. This can happen to anyone. This can happen to anyone's child. Like many bills, the Lindsay Ann Burke Act resulted from a real-life tragedy. At age 23, Lindsay Burke's abusive relationship ended with her murder. Lindsay had never learned about dating violence. She was inexperienced, trusting, and naive. In the words of her mother, Lindsay was the perfect victim and her boyfriend was the ultimate abuser. She never thought this would happen and her mother never thought this would happen. Lindsay was from Rhode Island but dating violence happens right here. The latest research on 'tween and teen dating violence is eye-opening. Verbal, physical, and sexual abuse is happening at a much younger age. I'll give you some background information. Here are the findings from Teenage Research Unlimited. This report documented that nearly half of the teenage girls who have been in a relationship say they've been victims of verbal, physical, or sexual abuse by their boyfriends, and one in five 13- to 14-year-olds in a relationship know friends and peers their age who have been struck in anger, kicked, hit, slapped, or punched by a boyfriend or a girlfriend. Nebraska's specific data shows that more than 10 percent of Nebraska high school females have experienced dating violence in the last ten months, and over 12 percent of Nebraska's high school females reporting having been forced to have sex. As you may have noticed, the Nebraska data is slightly higher than the national average. Many 'tweens and teens don't know the warning signs of a bad relationship and won't share their concerns with parents and that's why educational...that's why education is important. It can literally save a life. As you see in the amendment and the summary provided, the act addresses four basic things. The State Department of Education will develop a model policy by March 1, 2010, for local school districts to assist in developing their own dating violence policies. Each school district establish and adopt a policy by July 1, 2010, to address incidents of dating violence involving students at school. Each school district provide dating violence training to staff deemed appropriate by the school district's administration. And each school district incorporates age-appropriate dating violence education for students into the school program. I appreciate the support of the State Department of Education and the Nebraska Teachers Association. Their interest and willingness to step forward have made this all possible. I want to thank my colleagues on the Education Committee and my Chairman on the Education Committee for their support and their commitment for moving this bill forward. I thank Senator Friend for allowing me to put this amendment on LB63. I appreciate your consideration and I ask you for your support. Thank you. [LB63]

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SENATOR CARLSON: Thank you, Senator Howard. You've heard the opening on AM1360. There are senators wishing to speak: Senators Price, Coash, Avery, Friend, and others. Senator Price, you're recognized. [LB63]

SENATOR PRICE: Thank you, Mr. President, members of the body. In reading over this, I did ask Senator Howard if she would entertain a question that I would like to ask Senator Howard on the mike, if she would respond to a question. [LB63]

SENATOR CARLSON: Senator Howard, will you yield? [LB63]

SENATOR HOWARD: Yes. [LB63]

SENATOR PRICE: Thank you very much, Senator Howard. Thank you for bringing this forward. While I wasn't too concerned with things like this when I was younger because I wasn't very lucky to get dates, I understand this could happen. I also notice that the bands, I have them on right now, little tight but they're on. But the question I have for you is, you call out in your amendment school districts shall do this, and I was wondering, would you entertain being inclusive of learning communities? [LB63]

SENATOR HOWARD: Yes, Senator, Senator Price. As you and I discussed earlier, I certainly, certainly am. First off, I want to thank you for putting the band on, even though it is tight. I really find that a symbolic gesture of support and I do thank you so much. I would certainly endorse the learning community being involved in this and being supportive in any way as appropriate in their role, absolutely. I think that would be very important. They are involved with 11 different school districts and certainly I would see them as having an impact on this. [LB63]

SENATOR PRICE: Thank you very much, Senator Howard. Thank you very much, Mr. President. I yield. [LB63]

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

SENATOR COASH: Thank you, Mr. President, members of the body. Senator Howard, thank you for bringing this bill. This bill has merit. It's a good idea. I had some students in my office a few weeks ago, high school students, and I asked them about this bill and I said, there's a bill coming forward that's been introduced that would mandate that your school would have some policies with regard to dating violence and some training for your teachers. And I asked the students, what do you think about that? And they said, yeah, this is a good idea; that's a problem that we sometimes face in our school. And all of them knew of friends that have been affected through dating violence. So on that basis, I trust those students, but I am a little worried. Colleagues, this is one more thing we're asking to put on to the schools. We struggled for a few weeks this year over

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school funding and the growth of school funding. We may look back in five years and look back and say, why can't we get a handle on the growth? We may look at days like today and AM1360. I'm concerned about the workload for teachers. I asked some teachers in my district. I said, when the Legislature asks a school to do something like this, how do you find time to fit this in? And the teachers' response was, we're just told to fit it into another lesson. So we have one educational unit that is absolutely packed full; here's a potential one more thing to go into this. If you look at Section 5, it says each school district shall incorporate into their program, so this is a mandate. And I'm going to yield some time in a moment to Senator Adams because I have some questions, and my questions are, is a bill like this going to be...is it going to find itself into the needs formula that goes and calculates our state aid to schools budget? I'd also like Senator Adams to address teacher workload and how this might affect them. Because we have to ask ourselves, if this goes in, what comes out? If we ask a teacher, a school district, an administrator, find a place in your school curriculum to address dating violence, that may mean that something else can't be in there and we may find that that's important as well. And I think as a body we have to start thinking about what are we asking schools to do. Many times schools are the safest places in our community. They're the most stable force in a lot of children's lives. And for that reason we have to recognize the power of the schools and we have to recognize why things like this are important, because students may not get this at home. But with that, Mr. President, I'd like to yield the rest of my time to Senator Adams, if he would address some of those questions. Thank you. [LB63]

SENATOR CARLSON: Senator Adams, 1 minute and 50 seconds. [LB63]

SENATOR ADAMS: Thank you, Mr. President. Thank you, Senator Coash. Will it figure into the needs formula? No, not directly. But every time we ask schools to do more it, in effect, indirectly becomes a need and that's what we're doing here. Teacher load, I'll be very candid with you, when this bill in its original form came before the Education Committee, my initial reaction was--and it was the teacher in me, not the senator speaking--more, society wants the classroom to fix even more things. And I had a real problem with it. I'm okay with this amendment now because, as this bill in its original form moved through the committee, NSEA, school administrators, the School Boards Association worked with the AG's Office and really reduced this thing down to the bare minimum. In effect, the state board will create a policy, school districts will be asked to adopt a similar policy and someone within the school district will be designated as the person to help deal with dating violence. Now I'm oversimplifying a bit, but that is the essence of it. So I can be supportive of it. But again, the teacher in me says, 31 years, I saw all kinds of different programs, not just brought from this body but all kinds of good intending groups out there that said, here, schools, help us with this; here, schools, help us with this. And the answer was always the same: You can fit it in, won't cost any more, won't take any more time, you can fit it in. It's basic economics: Every time you fit something in something has to slide away. [LB63]

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SENATOR CARLSON: Time. [LB63]

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

SENATOR CARLSON: Thank you, Senator Adams and Senator Coash. (Visitors introduced.) Senator Avery, you're recognized. [LB63]

SENATOR AVERY: Thank you, Mr. President, colleagues. I was not in the committee when this bill was heard. I was absent. But I do support it and I support it strongly. Many of us really are unaware of the regularity with which dating violence and dating abuse does occur. I looked up some statistics: 1 in 11 adolescents reports being a victim of physical dating abuse; 1 in 4 reports verbal, physical, emotional, or sexual abuse each year; 1 in 5 reports being a victim of emotional abuse; 1 in 5 high school girls has been physically or sexually abused by a dating partner; 72 percent of 8th and 9th graders reportedly date; by the time they're in high school, 54 percent of these students report dating violence or abuse among their peers; 70 percent of girls and 52 percent of boys are abused and report an injury from an abusive relationship; 8 percent of boys and 9 percent of girls have been to an emergency room for an injury received from a dating partner. Victims of dating abuse are not only at increased risk of injury, but they also are more likely to engage in binge drinking, suicide attempts, physical fights, and currently sexual activity. Rates of alcohol, drug, and tobacco use are more than twice as high in girls who report physical or sexual dating abuse than girls who report no abuse. Dating abuse is associated with unhealthy sexual behaviors that can lead to unintended pregnancies, sexually transmitted diseases, and HIV infections. Abusive dating experiences during adolescence may disrupt normal development of self-esteem and body image. Adolescents in these abusive relationships often carry these unhealthy patterns of abuse into future relationships. Several students in a study suggested that negative consequences of dating abuse and violence affected their friends' lives. Thirty-one percent of adolescents report having at least one friend who is in a violent relationship. These are studies that are based upon empirical evidence, factual evidence, so we're not...we're not asking the schools to do something that is based on hearsay or maybe deal with a problem that might exist or a problem that is not serious. This is a serious problem. I think it's more serious than many of us realize and asking schools to simply develop a policy is not asking a lot. I do appreciate what Senator Adams had to say about adding more on to teachers and what Senator Coash said, but I don't think one has to look at this as a zero-sum outcome. If you invest a little time in developing this policy, it doesn't mean that you're going to have to quit doing something else that's worthwhile as well. This is a good amendment and I regret that I was not available in the committee to help advance it, but I am here today to tell you that I would have voted for it had I been there and I hope that you will vote for it today. Thank you. [LB63]

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SENATOR CARLSON: Thank you, Senator Avery. Senator Friend, you're recognized.  
[LB63]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. I got a chance to talk to Senator Howard about this on a couple of occasions and encouraged her to go ahead and give this a try. We tell our schools they have to teach math, we tell our schools...from the state level, that they have to teach English, science. We tell our schools all the time what they have to do. I like this idea that, oh no, another mandate on a school. We've been doing it as long as we've had TEEOSA. We've been doing it longer than that from a state level, so let's not sit out here and kid ourselves and say, oh no, another...look, here's what this bill does. Preamended, it was a problem. I agree with Senator Adams. Section 40 is intent language. Section 42, there's a bunch of definitions. Section 43, it says, "On or before March 1, 2010, the department shall develop and adopt a model dating violence policy." They have to develop a policy. Subsection (2) says they "shall develop and adopt a specific policy to address incidents of dating violence." Subsection (3) said "the policy shall be published in any school district handbook." They all have them because they all have unfunded mandates and they have a handbook and they have to explain what those mandates are, so they're all out there. Each school district, subsection (4), each school district shall provide dating violence training to staff deemed appropriate by...deemed appropriate by a school district's administration. There's your local control hawks out there. The school district does it. They say, here's what you're going to teach your teachers in regard to this policy. Subsection (5) says, "Each school district shall inform the students' parents or legal guardians of the school district's dating violence policy." They can hand them that document. Members of the Legislature, this isn't...I mean whether this is going to be incorporated under TEEOSA, I hate to tell you this, but it's irrelevant. We tell school districts what to do all the time. That's what we're doing here under these circumstances if we as a Legislature choose to adopt this amendment. Not one person has stood up and said this is a horrible idea. What we've heard is this is a great idea but it's another mandate on a school. Ye-ye-ye (phonetic), yeah, another violin. You know what? We do it every week down here. We tell the schools what they should do and what they shouldn't do. That's our job. If you don't like it, don't vote for this amendment. If you think this is fairly decent policy and it's not really that type of mandate on a school that's really going to force them into a box and it's going to cost them, you know, \$40,000 to do it, let's be realistic and let's use some common sense. After I just read you what this does, do you think it's going to cost a district \$40 grand in order to do it? My answer to that rhetorical question is, no, I don't think that. They have handbooks. They have the appropriate stuff in place. All you do is create a policy and then the district tells everybody how that policy is going to be implemented, right? I think we're...I think we're going down a road where we're making a mountain out of a molehill. That's my point. I would ask for the, I guess, the eventual adoption of AM1360. Thank you, Mr. President.  
[LB63]



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SENATOR CARLSON: Thank you, Senator Friend. Mr. Clerk, for an announcement. [LB63]

CLERK: Mr. President, your Committee on Enrollment and Review reports LB218, LB218A, and LB542 to Select File. Senator Pankonin offers LR124 calling for an interim study, and Senator Wightman offers LR125. That will be laid over. Education Committee, Mr. President, will meet tomorrow in Executive Session at 15 minutes upon morning recess, so approximately 12:15 in Room 1525. (Legislative Journal pages 1430-1432.) [LB218 LB218A LB542 LR124 LR125]

And I have a priority motion. Senator Christensen would move to recess the body until 1:30 p.m. []

SENATOR CARLSON: Thank you, Mr. Clerk. You've heard the motion to recess. All in favor say aye. Opposed, the same. Motion carried. We recess until 1:30. []

RECESS []

SENATOR CARLSON PRESIDING []

SENATOR CARLSON: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Mr. Clerk, please record. []

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

SENATOR CARLSON: Thank you, Mr. Clerk. Do you have any items for the record? []

CLERK: I have nothing at this time, Mr. President. Thank you. []

SENATOR CARLSON: Thank you. We will return to discussion on AM1360. Senators wishing to speak: Nantkes, Janssen, Stuthman, Sullivan, and others. Senator Nantkes, you are recognized. (Legislative Journal page 1395.) [LB63]

SENATOR NANTKES: Good afternoon, colleagues. Thank you, Mr. President. I was hoping that Senator Howard would yield to some questions, please. [LB63]

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

SENATOR HOWARD: Absolutely. [LB63]

SENATOR NANTKES: Thank you, Senator Howard. Senator Howard, I know that you have a long track record starting with the bullying bill and the continuation thereof

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reflected in this amendment and this legislation that you brought forward this year in trying to promote education around harmful behaviors in our schools. And I was just hoping that you could provide a little background and a little context for the body about how this legislation came to you and some of the public policy reasons behind the need to adopt it. [LB63]

SENATOR HOWARD: Thank you, Senator Nantkes. I appreciate the opportunity to do that. The bill itself was brought to me by the Attorney General's Office. And they were very concerned about, as I said earlier, the real-life tragedy of Lindsay Ann Burke's death. She was a 23-year-old girl who was involved in a dating relationship that turned violent. And she had no knowledge or the ability to respond appropriately. She didn't confide in her parents, which was certainly something you'd like to think every child would do but in many cases they don't. They simply don't feel comfortable in discussing this at home with their family. And she was killed as a...at the hands of her boyfriend. [LB63]

SENATOR NANTKES: Thank you, Senator Howard. And just so that the record is clear, I, too, want to lend my thanks and give credit to...and, Senator Howard, correct me if I'm wrong, but really to Attorney General Jon Bruning for being the primary proponent of this legislation and bringing this idea forward. Would it be fair to say that he alone and his office is primarily responsible for first bringing this idea to our state? [LB63]

SENATOR HOWARD: Well, he is the individual that contacted me regarding this. I wasn't aware of this problem until he brought it up. I think the tying link here was the fact that I had carried the anti... [LB63]

SENATOR NANTKES: Bullying... [LB63]

SENATOR HOWARD: ...the antiviolenace two years ago with the antibullying bill. [LB63]

SENATOR NANTKES: Right. And so, Senator Howard, I think that obviously would be a natural connection to ask you to sponsor it through the legislative process. But is it your understanding that Attorney General Jon Bruning first became aware of this issue through his work in the Attorney General's Association and then really took the lead in drafting this and bringing this legislation forward? [LB63]

SENATOR HOWARD: Yes, I think that would be...certainly be fair to say. [LB63]

SENATOR NANTKES: Great. Well, thank you, Senator Howard, for your leadership on this issue. And thank you to the Attorney General for bringing attention to this issue and its many broad and important public policy issues that it touches. And I want to thank him for that and just make sure that the record was entirely clear that Attorney General Jon Bruning has really done a phenomenal job in putting forth this public policy. Thank

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you. [LB63]

SENATOR CARLSON: Thank you, Senator Nantkes and Senator Howard. Senator Janssen, you're recognized. [LB63]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. I now know that Attorney General Jon Bruning helped put this thing together. And Senator Nantkes and I have been on the same page all day today, so this is really a great day at the Nebraska Legislature. I'm happy to be here today. I would say Senator Howard is kind of my...we sit next to each other, we talk quite a bit. She did a great job. We had discussed it last week, different bill, she kind of asked me, I'd like to attach this, do you know of any. We couldn't find any. She finally found one. And I thank Senator Friend for allowing AM1360 to be added to LB63. It is a start. I've heard some comments around over lunch that this is kind of a feel-good bill, it doesn't really do anything. Well, if it's a feel-good bill, it just made me feel good, so it did something. I feel good about this amendment with this bill. I think it does do something. I think it's very real. And I think the school is the place to start teaching this. When I look back at the bullying, to me, I went to high school a few years ago and bullying was real prevalent. And I'm sure it still happens. But it was never brought up, ever was it brought up to me by...you know, you got detention once in awhile, but it was never brought up as necessarily a really bad thing. And you were never aware of the consequences. If you were the one doing the bullying, you weren't aware of the consequences that possibly you are putting on that person or persons. So I applauded the bullying bill when it came out by Senator Howard, although I was not a member of this body at that time. This happens...it happens. It has no socioeconomic class. This is not something...it's not an Omaha thing, it's not a western Nebraska thing. This is all of us. And I think it really starts with the education piece of it. It used to be a day, when you talk about dating violence, if somebody was upset with their...the person they were dating, they broke up or whatnot. The only thing we had, and this isn't that far ago, I graduated high school 20 years ago, the only thing I had is a phone at home. The only thing she would have is a phone at home. Didn't have to answer it. Things have changed. You can really get on somebody and be on somebody 24/7 with what we have right now. We have text messages, we have e-mail, we have instant message, we have Facebook, we have Twitter, and let's not forget our mobile phone is connected to us all the time and, oh yes, there's also the phone at home that can be called all the time. The days of getting mad, going home, trying to call somebody, that's over and time to cool off. People need to be aware of what they're doing. This needs to happen in high school. And let's face it, there's boys in high school that don't understand what they are doing, that the...how dramatic of an impact they are having on their victims. And these are victims. And a lot of times these victims feel like they're the ones that are the problem, and they're not the problem. And they're reluctant to report any type of problem because they're scared and they think it's their fault, they think they'll be in trouble, and they need an outlet. They need to know that the school is there, the school cares about them and, yes, it is an educator's role. And I would hope educators do this

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anyways. But now there is just an actual way for it to happen. And I talked to schools, they seemed fine with it. So it's a feel-good bill. I say give it a green light, it is a feel-good bill, that's fine. I think it will do a lot. I think we need to strengthen the penalties for this type of activity. We need to streamline activities in dealing with domestic violence and other issues. But this is a start and anytime you start the best way to start is by stopping it before it really even gets started. I would ask one question with my microphone mate here, Senator Howard. So if she would yield. [LB63]

SENATOR CARLSON: Senator Howard, will you yield? [LB63]

SENATOR HOWARD: Yes, I will. [LB63]

SENATOR JANSSEN: I was reading through the amendment and it said...I guess, one thing I wanted to make sure is it said education and information. [LB63]

SENATOR CARLSON: One minute. [LB63]

SENATOR JANSSEN: I wanted to find out...thank you, Mr. President, is there still in this amendment...would it allow a place for a victim to know where they could go as far as civil and criminal law, the outlet that they could utilize? Would that be part of this process? [LB63]

SENATOR HOWARD: That's a good question. And the way that would work is this does not preclude any other avenues regarding any civil prosecution or any penalty involved on another level. This is information. This is an opportunity for that student to come forward and get that very information that you're talking about. So that if it is a situation that would lend itself to further following through, that would be available. [LB63]

SENATOR JANSSEN: Thank you, Senator Howard. I would urge you to vote green. I plan on doing the same. And it makes me feel good. Thank you. [LB63]

SENATOR CARLSON: Thank you, Senator Janssen and Senator Howard. (Visitors introduced.) Senator Stuthman, you're recognized. [LB63]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I've been listening to the debate here. And I want to talk a little bit about, you know, if this bill does pass, you know, what the effect is going to be on the school districts. And I have two members of my family that are teachers and I discussed this with them as far the bullying was that we put on a year ago. And my daughter says that, you know, there is the school policy handbook. And she says, you know, that handbook, there's the little handbook and then there is the big one. And I don't think the average people here realize that, you know, that these policies and this handbook have to be reviewed every year. There has to be someone go over it. It's a school policy that they must be

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reviewed, they must take minutes, they must take notes as to what they have done on some of these situations, and especially like what was put into effect last year as far as bullying: what are they doing about bullying; what are the effects of it; what are the consequences and what are they doing. That takes staff time. What we're trying to do right now is put another item in that handbook. And I think this is something that I had never realized and I think the majority of us don't realize is the fact that they need to or if the school district demands that they have a policy, if we enact this, that there is a policy in place and there has to be someone that, you know, establishes what type of criteria that they're going to use, what type of education are they going to do, and what they're going to do in the school day. And I think, to tell you the truth, most all of the teachers are about maxed out. They're doing about all they can. I just think that we need to keep in mind we can't be putting another issue upon another issue, every year let's put another mandate into that school handbook for the teachers, the administration to address. And if they don't address it or something comes up, you know, they could probably run into some type of a problem. But the issue is that, you know, this, according to the way that I understand it, it is a mandate. So a mandate means that they must address it. And if they need to address it, it's going to take time. And this isn't the only one. There are many, many mandates. And I think that's very serious. I just feel that if we put another mandate on it that there should be some compensation for it. But to tell you the truth, I don't know whether there is enough time, you know, in the school day for these teachers to have to address this situation throughout the year, plus the fact that they must sit down, have a meeting. And I don't know for sure but my daughter did mention they must review that handbook like at least annually and there are regulations as to the time that they have to review that handbook. And there must be notes taken, minutes taken and what they have accomplished with that mandate. So I think we need to be very serious as far as the fact of, you know, how much can we continually put on the teachers when I think the parents should be involved. I think that's very serious. Because the teacher is with them, you know, six to eight hours a day. Are they the ones that have to do the complete load of work in educating of these students, of these children? I think we need to take a serious look at that. I mean, I think, you know, the teachers can help and assist... [LB63]

SENATOR CARLSON: One minute. [LB63]

SENATOR STUTHMAN: ...but in order...but what we're trying to do right here is put another mandate of a feel-good situation. And I have...there's a lot of sympathy in my heart for these victims. But if we put this as a mandate into the school policy is that going to stop it? I don't think it will. And I think we need to continually think about, you know, what are we putting onto the teachers in the schools, you know, and what they are supposed to do. We put in the bullying part, now we're going to put in this next one, and next year another one will come, and another one will come. So with that, I think we need to be very serious as to, you know, how we approach this. And with that, thank you, Mr. President. [LB63]

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SENATOR CARLSON: Thank you, Senator Stuthman. Senator Sullivan, you're recognized. [LB63]

SENATOR SULLIVAN: Thank you very much, Mr. President and members of the body. I speak in favor of AM1360 and take a little bit of a different approach as opposed to what Senator Stuthman just said. When we heard about this bill in our Education Committee, I talked to some educators afterwards, and most of them felt that it was not going to be an onerous mandate, that they were probably going to incorporate some of the features of this policy as part of their bullying policy, that it could be easily handled. So from a practical matter I think it's totally manageable. Are we venturing into educational policy? Perhaps we are. But I would also have to ask, should we? I've been concerned all along, as we have discussed some of the issues particularly with respect to safe haven, that we're looking at some very critical problems that need to be addressed with children and families in this state. But in addressing them so many times we are treating the symptom and not addressing the underlying problem. And how are we going to address the underlying problem? In part, and I would suggest in large part, it's going to have to come through education. My educational background in part were degrees in what formerly was called home economics at the University of Nebraska. We have seen that type of curriculum, home economics, in our elementary and secondary schools pretty much diluted. It's not nearly as strong a program as it used to be. And I would suggest to you that that curriculum addressed, on an educational basis, some of the major issues that we are facing today, whether it be parenting, anger management, even dating violence. So perhaps this particular piece of legislation that we are dealing with here is piecemeal. But I would suggest to you that it is dealing with some of these core problems that we have in our society from a preventative mode. And I really believe that if we are to ultimately solve these issues that we are facing with children and families today, we have to go at it from a preventative and an educational mode if we're going to get systemic change. So I think, yes, maybe we are providing an additional mandate to schools. I think it's manageable, I think it's doable, and I think it's needed. And I think it's more than feel-good legislation because in a very small part I think it is addressing some of these systemic problems. And it's going to be a preventive mode and not just treating a symptom. Thank you very much. [LB63]

SENATOR CARLSON: Thank you, Senator Sullivan. Senator Howard, you're recognized. [LB63]

SENATOR HOWARD: Thank you, Mr. President, members of the body. And thank you, Senator Sullivan, for your insight into this matter. There are a couple of points I would like to bring up. The first is that I had worked on the antibullying bill for a number of years. And it was through some very good advice and good assistance that I received from Virgil Horne, with Lincoln Public Schools, among other people. I could go down the list: John Bonaiuto, individuals that stood up and said this is important, we're going to

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address this in the schools. It occurs in the schools, we need to deal with it in the schools. And antibullying was passed two years ago. This I see as a component to that bill. This is another segment of bullying that transpires in our schools. And where does dating begin? Dating really does begin in our schools. The youth that are in high schools that pass in the hallways, that are together in the drama clubs, that share time in the homerooms, that pass notes back and forth, well maybe now they text, but these are the individuals that start dating one another. And it's not always a safe environment. And when we have not prepared these individuals in some way to know how to cope, to know what's going to help and who can they turn to, they're not ready to deal with this. Yeah, we could ideally say this should occur at home but so should so many things. Kids should not be taught not to bully other kids in home. That should start when they're very young. That doesn't occur. I'm sure you've all been contacted about incidents or maybe in your own families regarding bullying situations. It's not unusual, it's not an isolated phenomena, neither is this. We've been assured, I have been assured by the school system representatives and the school administrators that this particular issue can easily be incorporated into the health curriculum, can be addressed side by side with the antibullying. I have been so impressed and so grateful by the number of administrators and teachers and individuals who are knowledgeable in this field, who have come forward, testified, contacted me through phone, e-mail, letters and said this is the right thing to do. So I urge all of you to really consider this and the impact that this will have on the youth in education and prevention. Thank you. [LB63]

SENATOR CARLSON: Thank you, Senator Howard. Senators still wishing to speak: Fulton, Harms, Fischer, Pankonin, Haar, and others. Senator Fulton, you're recognized. [LB63]

SENATOR FULTON: Thank you, Mr. President, members of the body. Debated whether...debated again, there I am, debating myself. I contemplated whether or not to speak on this because I think this is probably, probably going to move forward, probably going to get attached to LB63. But I do think that this is...I think I might provide some insight, which is important such that we get it into the record. My wife and I mentored high schoolers for a number of years, they'd come in once a week to our home. And that wasn't...that was just up until a few years ago that we stopped doing that. And I'm about the same age as Senator Janssen. It was a little less than 20 years ago I was in high school and, man, a lot has changed in that time. We actually had a section discussing dating violence and courtship, appropriate means and modes of dating. And I was shocked by what I learned from some of these kids. There is one individual young lady that we talked with after that particular meeting and she is one that falls under these categories, one of these categories of being in an abusive relationship. And she knew it and she understood it and she grasped what we were saying, but she couldn't get out of it. She was going to go back to this guy, and she knew she was going to go back to this guy. And it's really...it's a strange psychological phenomenon but it was just heartbreaking for us. And we spoke with the parents, but this is something that occurs.

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And in reflecting on this bill or this amendment specifically, I hope that we'll take some time maybe...we're probably not going to do it today because I'm going to be honest with you, and hopefully you probably follow me, we don't do a whole lot of really deep thinking out here. Things are coming at us really quickly and we are actually...usually we're responding to something that we have discerned when we were in a place of deeper thought and a place of more quiet. Maybe I'm wrong, maybe there are those who are able to think deeply while they're out here on the floor but I'm not one of them. It's those times when I'm at home and I'm trying to fall asleep, when I should be falling asleep when I'm thinking about things that we talk about down here. And this is one that I'm probably going to think about tonight, and I hope that you contemplate it as well. Take a look at our popular culture. I have kids that are starting to listen to music. And my wife and I vet the music that they listen to before they can listen. We're pretty oppressive when it comes to what our children get to listen to and we're going to keep it that way. Some of the music that's out there it is amazing the way that women, specifically young girls, are treated. What is appropriate? I won't even repeat some of the words that are assigned to young women. But these are some of the top ten music in our popular culture, it's just stunning. And we as a Legislature are left to deal with some of the problems which I think are engendered within some elements of our culture. Now I know I'm being general here and when we speak identifying problems we're supposed come up with solutions. This is not one I think that legislators are going to be able to right. This is something deeper. There's something deeper going on in our culture which I think we're seeing the fruits of today in many varying ways. And maybe it can be argued that this type of behavior has existed for some time and that now we have progressed as a society such that we recognize it and address it. And that may well be the truth. But I'm going to be thinking about this and I hope you do too. There are some things that we are not going to be able to change here in this Legislature, but we can begin to put some emphasis on it. [LB63]

SENATOR CARLSON: One minute. [LB63]

SENATOR FULTON: We might not be able to wave a magic wand and cause this problem, dating violence, the objectification of oftentimes young ladies by domineering, bullying boyfriends who enjoy this dominion, this power over women, we might not be able to wave a magic wand and make this go away but we can bring some attention to it. I've talked with a couple of you out there about this. And the analogy that I bring up, it's like the Titanic. Okay, the Titanic was this enormous ship, and you're not going to move the Titanic once it's set on a course. We are not going to move anything. Okay? We can address this somewhat in our schools. But there is something deeper at work here. We have put a few oars into the water to help influence the way the Titanic is moving. But there are deeper societal issues that we should be addressing, at least contemplating not just as legislators but as a society. [LB63]

SENATOR CARLSON: Time. [LB63]



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

SENATOR CARLSON: Thank you, Senator Fulton. Senator Harms, you're recognized. [LB63]

SENATOR HARMS: Thank you, Mr. President, colleagues. I arise to support AM1360 and LB63, the underlying bill. I believe this issue is an issue that, quite frankly, is a lot worse than what we really think. There are a lot of teenagers that go through abusive relationships, more than what the data and statistics show. There are many teenagers that do not know where to go, that don't want to go before their parents and have this discussion, the fact that they've been sexually abused or physically abused. My point is that we need to stop it now. The first time it happens young women do not have to tolerate this. I absolutely have no tolerance at all for it because I think it's abusive. Young women do not have to tolerate this. We just need an avenue for them to address it, to let them know that there is a place, that there's people willing to help them, people that understand what the issues are. But unfortunately, so many teenagers get themselves into an abusive relationship and they don't know how to get out of it. And to be very honest with you, Senator Fulton, I believe that it's the family circle that's broken down. I think that's the issue. We have dysfunctional families anymore. We don't take the time to deal with our own children and explain to them and to get them to understand how important it is to have a relationship, a good relationship, not an abusive relationship. And if we don't stop it now what happens to the young man or the young woman? They just go on. And as they become adults it becomes more abusive and pretty soon they get themselves into a deep trench that they can't get out. That's why it's so important to catch it at the front end, address the issue and deal with it. When I look at this legislation, it does not say that it has to be integrated into the curriculum. It says it has to be placed into a program. That program could be through the counselor's office, that program could be a separate, independent approach where you could bring experts in, you could bring other people in to begin to address this issue and prepare our kids, teenagers for what they might be confronted with. I understand the issue with the public schools about this is just another mandate they have to follow. I'll tell you what, this is a serious mandate. When this happens to a young teenager, to a young woman, their life is changed forever, their life is changed forever. It will take them years to get over that. And in fact, many will never get over it, many will never have a trusting relationship again. Our society has changed so much, our values have changed so much, we've become such a rapid moving world. I think Senator Fulton hit it right on the head when he was talking about music. I will tell you very much, I will tell you that we definitely, with our grandchildren, were very conscious about what they're listening to, what they're doing on the Internet when they're in our home because I think it's extremely important to monitor what's taking place. Those values and those principles start being set in a child's mind early, it starts to burn in. And if we're not aware of those issues and are willing to address those issues then it's easy to go astray. It's easy for us

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to walk down a pathway that's not appropriate. As a young teacher I don't know what I would have done if a young man or young woman would have come to me in my early teaching career and would have said, I've been in an abusive relationship, I need help. I wouldn't know where to go to start with, I wouldn't know how to deal with that teenager. I would have dealt with it but I probably would have made all the wrong mistakes. But I would have eventually gotten to the bottom of it and definitely would have been dealing with the relationship. I think we need to train our teachers. I think we need to train our administrators. To be honest with you, I don't think they know how to deal with that. [LB63]

SENATOR CARLSON: One minute. [LB63]

SENATOR HARMS: I don't think they know how to address that issue. I think it's important for us to set the stages for this. I hate to see the school be confronted with this because we don't have the family circle as it was when I grew up. I hate to see the schools have to be a doctor, have to be the nurse, have to be the disciplinarian, have to be the mother and the father, but unfortunately that's where we are in society. It's wrong. And whatever we have to do to correct at least this part of the family issue we need to do that. I think it's important. It's important for the future of our teenagers. And the most important thing is we want to start and prevent that relationship continuing and that abuse continuing into the future when they become adults because then it becomes a lot worse. Thank you, Mr. President. [LB63]

SENATOR CARLSON: Thank you, Senator Harms. (Visitors introduced.) Continuing with discussion, Senator Fischer, you are recognized. [LB63]

SENATOR FISCHER: Thank you, Mr. President and members. I rise in support of AM1360, Senator Howard's amendment. As a former school board member, we were always concerned about state mandates and federal mandates and what it would cost our district when we should be spending money on educating children. I think Senator Harms said it well, though. Schools have taken on a greater role in this society, and the needs that schools have to meet are greater. Do school board members and taxpayers in those districts like that? No, but it is a reality. If you read the amendment, it requires that districts have a policy and that the Department of Education has a requirement to come up with a sample policy on that. That's very helpful for a school district and especially for smaller districts because we don't have a lot of personnel that have the time to put together policies. And so when the department puts those together and it's a basic policy, that gives us something to start with. I am a former president of the Nebraska Association of School Boards. And I spoke with Dr. Bonaiuto about this amendment. And he assured me that the Nebraska Association of School Boards is also in favor of the amendment because they view it that districts still have the local control on the policy, and there is no money required that would be used to implement any part of this bill. And that, I think, is very important. And I thank Senator Howard for

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agreeing to those parts of the amendment because it is important for a district at any time, but especially in the budget situations we are in now that we don't force more unfunded mandates onto those districts. This is not a mandate that will require funding but it is an important, an important amendment because it addresses a situation that many of our children are faced with and they don't know where else to turn. And we have to have something available for them at the local level, with their local schools, with their local teachers, with the local policy that would help everyone be able to address the needs and concerns of those students. Again, I am in favor of Senator Howard's amendment. And I would encourage you to support it. Thank you, Mr. President. [LB63]

SENATOR CARLSON: Thank you, Senator Fischer. Senator Pankonin, you're recognized. [LB63]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. I'm going to say a few words and then I'm going to call the question. I think we've had good discussion. It's been somewhat distressing at times but I think very realistic about some of the problems in society. I just want to add, before Senator Carlson went up to preside today he dropped off one of his cards with some notes. I think he was going to talk on this. And I think a lot has been said that we would all agree with. But something that he told me a couple weeks ago, I had a grandson born about three weeks ago and I also have a granddaughter that's two and a half, and they live in Louisville, I see them often. And he made a statement, I think, that's important. And that one...oh, oh. Senator Karpisek says I can't call the question after I spoke. So the next person will have to do that. But I just wanted to mention that Senator Carlson said, you know, you raise your own kids, and you have grandkids and you want to protect them all over again. And you want to help them every way you can. And I think this amendment is not the answer for all the problems because so many of them are societal and parents and families. But if it can help in some little way and maybe at least make educators aware of potential problems and how to deal with them if they come up, like Senator Harms has said, where do they go if it comes up, then I think it is worthwhile to do. But I appreciate all the discussion. And Senator Carlson is so right, when you have grandchildren it starts all over again being concerned about them, trying to make our world as good as you can for them and to protect them. And so I thank you for those words, Senator Carlson, and the opportunity to speak. And the next person can call. Oh, I'll yield some time to Senator Adams. [LB63]

SENATOR CARLSON: Thank you, Senator Pankonin. I like what you said. You could speak on for another 3 minutes. But, Senator Adams, you have 3 minutes. [LB63]

SENATOR ADAMS: Thank you, Mr. President, and I'm not going to use 3 minutes. I just want to bring this back to a point. There isn't a teacher, in the 31 years that I spent in the classroom, that I can recall that wasn't fully prepared on any given day to deal with

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all of the problems that walked into a classroom. The kid that didn't get breakfast, the kid that had to deal with a family problem that night, maybe even the high school or the junior high teacher that had to deal with something related to dating violence. Yet at the same time there's probably not a teacher out there that wouldn't tell you that there was a time when they wished they had a little better handle on how to handle those kinds of things. Let me reiterate what has been said over and over again. If I thought that this amendment was going to add a bunch of work to teachers and I felt that the bill in its original form was I wouldn't be standing here in favor of it. But with the work of the AG's Office, the NSEA, the state school boards, and the state administrators, we have got this thing narrowed down to what it is. It is a policy statement from the state board that will be duplicated by school districts, will be promulgated to parents, and there will be a key person or persons within a school district, it's left flexible, to do some training and know how to handle these things. It's very narrow and, therefore, I'll support it. Thank you, Mr. President. [LB63]

SENATOR CARLSON: Thank you, Senator Adams. Those senators still wishing to speak: Senators Haar, Nelson, Loudon, Stuthman, and others. Senator Haar, you're recognized. [LB63]

SENATOR HAAR: Mr. President, members of the body, I'd like to add a...I rise in support of the amendment. And I'd like to add a somewhat different slant to all of this. Last fall I was driving home and I was getting close to Malcolm and down the road came a car with four young people in that car. One was driving the car, the other were sitting on the windowsills with the main part of their body hanging out of the car and waving at people as they went by. And I was just so shocked. I should have gotten the license plate and tried to get ahold of their parents or something but I couldn't. And so you ask, why would anybody be that irresponsible? And when it comes to this amendment, we're talking about highly irresponsible action. And the reason is that...one of the reasons and I think the thing that makes this so important is that adolescents are not just young adults. I did a lot of research--I was going to get up and talk in favor of Senator Council's LB307--and the interesting thing that I've found is there's more and more scientific evidence that adolescent brains are not developed. Science has now found, using NMR, a really expensive and complex equipment, that intellectually people mature somewhere around the age of 16. That's intellectually. But emotionally people continue to mature well into their twenties. And that means actual physical changes in the brain. The part of the brain that controls our executive function, the one that if I want to hit somebody it says, now wait a minute, think a minute, don't do it, that's the frontal lobe of our brain and that's the part that develops last in the human being. And just a sentence here from the American Bar Association in one of their articles: The evidence now is strong that the brain does not cease to mature until the early twenties in these relevant parts that govern impulsivity, judgment, planning for the future, foresight of consequences, and other characteristics that make people morally culpable. Indeed, age 21 or 22 would be closer to the biological age of maturity. And so if we expect

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young people to act morally we have to work especially hard, I think. Just because adults, I'm sorry, adolescents look like adults doesn't mean that they're adults. That part of the brain, the executive function, the gatekeeper for emotions has not matured. And especially if you put that in with testosterone and alcohol, you have a mix that can result in all kinds of violence in adolescents and teens that we just can't explain otherwise. So I think one of the really important parts of this is we have to understand that adolescents aren't just young adults, that the brain is developing, and that that puts special parenting responsibilities on us and special education responsibilities so that young people are aware that sometimes what they perceive is not what they think. One of the interesting studies they did is to show pictures of adults with emotions to adolescents. And adolescents were much less likely to correctly identify emotions on the faces of people. And so such a thing as fear, very often an adolescent wouldn't recognize the... [LB63 LB307]

SENATOR CARLSON: One minute. [LB63]

SENATOR HAAR: ...emotion of fear in somebody else's face. And, of course, fear goes right along with the kind of violence that we often see. So I rise again to support this amendment. I think it's really important that we do this education and we also understand why adolescents sometimes act as irresponsibly as they do. Thank you very much. [LB63]

SENATOR CARLSON: Thank you, Senator Haar. Senator Nelson, you're recognized. [LB63]

SENATOR NELSON: Thank you, Mr. President, members of the body. I have some real reservations about this amendment. What Senator Haar had to say was excellent. The fact remains that school policy is not going to change any of that, how young people are, how they act, how immature they are. Senator Harms had good points and Senator Fulton. Is anyone for dating violence? That's like the same thing as being for motherhood, the flag and apple pie. Is it necessary to develop a policy on it? Do we need to revise the handbook to insert the policy and send copies to the parents? Do we need to spend time to train teachers and then use the time of the teachers to talk with students, if necessary. I supported the bullying bill because that is something that's obvious in school. I'm not so sure that dating violence is obvious or that you can be aware of it, that it takes place in the hallways or in the classrooms of the school to the extent that it can be observed. Can you recognize abuse? Probably. Our teachers already can recognize child abuse, probably domestic violence. And I would say that parents are the best able to recognize when they see their kids, their daughters, their teenagers at home. Is a warning, a policy warning helpful or of any use? Let's recognize the fact. This policy is not going to stop it. If you're going to let your daughter start dating at ages 14 and 15 with older boys, there's going to be trouble. In high school, if you're going to let your kids go out and binge drink and engage in casual sex, there's going to

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be trouble and it's going to lead to consequences and those consequences will be dating violence. It happens. And the girl or the boy involved certainly can recognize it. So the choice is theirs. If they want to continue in that activity and endure the risk of violence, and I think we can see from domestic violence that once people get tied into it it's very hard for them to get out. But is a policy that the school promulgates going to make any difference? I don't think so. And what does it do? It just adds additional work for teachers. It adds additional expense. As far as I'm concerned, I think it's a useless mandate that we can do without. Maybe we can make a start here and maybe it can be expanded. But it will be expanded into school curriculum and training, and that's going to involve additional money and additional time. I don't think this is the place to put a policy like this in effect and place it on the schools. And with all due respect to Senator Howard, I will not support this amendment. Thank you, Mr. President. [LB63]

SENATOR CARLSON: Thank you, Senator Nelson. Senator Louden, you're recognized. [LB63]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I've looked this amendment over I agree, this is something that needs to be done. This is a question and there's probably a problem out there. I don't know if this will do any good when we pass this amendment. I think the problem will be just about like it was before we started. But I guess my concern is this is a mandate. This is a social issue that we're pushing out on our schools. As you look in Section 44 it says, "Each school district shall incorporate dating violence education that is age-appropriate into the school program." In other words, you have to develop something into the program. Now will that cost much? I don't know. Will people have to be trained? It's hard to say. Will we have to hire an extra counselor in some schools, or some schools that don't have counselors, how will that work, or some of them that have part-time counselors? Also in that same section you talk about "Each school district shall provide dating violence training to staff deemed appropriate by school district's administration." In other words, you're going to have to have staff training. It goes on to say the "training may be provided by any school or district or combination of...or educational service unit" and so forth. In other words, we will have to have some workshops in order to train the teachers to do it because if they haven't had that workshop then they probably won't be qualified to do this. You're passing something in statute that has to have some qualifications in there on the person that pointed this situation out, if they go into court or something like this. So I think we're doing...you're doing something that probably makes you feel good, it will probably help. I don't have a problem with it, but I would like to point out that this is a mandate that is being pushed onto the schools and it is a social issue, along with many other social issues that we continue to push onto schools. We're feeding them breakfast and that sort of thing, it's all these issues. And then when we get ready to work on our aid to education, everybody is wondering how do we hold the cost of education down. Fine, I don't mind having the schools do some of that. But I think it should be pointed out that really that is welfare and it should be taken up out of the welfare part of the budget and

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used to help finance some of those things that the schools are mandated to do. Part of the problems with this dating, I think, is, as Senator Fulton has mentioned already and Senator Harms, is the family circle has broken down. Years ago when I was a young man, if someone I think abused some girl that they were dating you probably had to contend with their brother someplace (laughter) and that usually took care of it up front, either the brothers or some dads and uncles or something like that. I can remember many of these instances when I was a little kid that some of the people around town usually took care of those problems and nowadays, why, we push off onto social issues. So we do have a problem with our family circles breaking down. As the amendment goes I don't know as it's going to cost anything to do that. I don't know as it's going to do any good. It will make everybody feel good that we pass this and it will be something that will go along. I guess my question is, you know, where has the bullying went; is there less or more of it or is there about the same as it was, and do the schools handle it about the same way as they did before the legislation was in? And as I see this I think, whether or not this legislation is passed, I think the school will probably handle it in about the same way that they have. If it isn't in statutes then they probably won't be required to have staff and train staff to... [LB63]

SENATOR CARLSON: One minute. [LB63]

SENATOR LOUDEN: ...to address these problems. With that, I will probably...as I've listened to the discussion so far, I have a problem whether to support it, mostly because I think it's a social issue we were putting onto the schools. As far as the bill is concerned, I don't think it's going to hurt that much but it may cost some more on your state aid to education. So you may have to be prepared to add a little bit here in the future in order to cover these things. Thank you, Mr. President. [LB63]

SENATOR CARLSON: Thank you, Senator Louden. Senators still wishing to speak: Senator Stuthman, Council, Friend, Price, and others. Senator Stuthman, you're recognized. [LB63]

SENATOR STUTHMAN: Question. [LB63]

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

CLERK: 31 ayes, 2 nays, Mr. President, to cease debate. [LB63]

SENATOR CARLSON: Debate does cease. Senator Howard, you are recognized to close on your AM1360. [LB63]

SENATOR HOWARD: Thank you, Mr. President, members of the body. I want to thank

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the Attorney General's Office for bringing this issue to my attention. As many of you know me, and many of you have known me for a number of years now, bills that I bring in to you, legislation I bring in to you most generally has a foundation in prevention. This is another piece in the preventative legislation that I've advocated for. Teen violence, teen dating violence can be the beginning of a lifetime of abusive behavior for both the victim and the offender. Training will better prepare the adults who work with these youth to identify the signs. Classroom education, classroom education is the key to helping young people identify the signs of abusive behavior and understand where to turn to for help. Policy sets clear expectations for youth and the school systems. I want to thank you for your consideration and your discussion this afternoon. I respectfully urge that you vote yes for this amendment. I would request a call of the house and a record vote. [LB63]

SENATOR CARLSON: Thank you, Senator Howard. 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; all those opposed vote nay. Record, Mr. Clerk. [LB63]

CLERK: 32 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 Howard. [LB63]

SENATOR HOWARD: I would like to request a roll call vote. [LB63]

SENATOR CARLSON: Thank you. [LB63]

SENATOR HOWARD: A record vote, record roll call, please. [LB63]

SENATOR CARLSON: A record roll call vote. Thank you. [LB63]

SENATOR HOWARD: Thank you. [LB63]

SENATOR CARLSON: Senator Hadley, please check in. Senator Lautenbaugh, Nordquist, Lathrop, Heidemann, the house is under call. Senator Nordquist, the house is under call. You've heard the closing on the amendment. The question is, shall the amendment be adopted? Roll call vote, Mr. Clerk. [LB63]

CLERK: (Roll call vote taken, Legislative Journal page 1433.) 41 ayes, 0 nays, Mr. President. [LB63]

SENATOR CARLSON: The amendment is adopted. The call is raised. Next item, Mr.



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Clerk. [LB63]

CLERK: Senator Council would move to amend, Mr. President, with AM1392.  
(Legislative Journal page 1433.) [LB63]

SENATOR CARLSON: Senator Council, you're recognized to open on your  
amendment. [LB63]

SENATOR COUNCIL: Yes, thank you, Mr. President. I want to begin by applauding the work of the Judiciary Committee. The committee put in a lot of time under the leadership of the Chairman in attempting to draft what has become, I guess, a classic case of an omnibus bill. And when the bill was being debated and the various amendments were being discussed, and, as you know, LB63 includes a number of bills that were introduced independently, and the bill itself that was advanced to Select File with the E&R amendments is 43-pages long, I had a lot of concerns and questions about various aspects of what is now LB63. And as a result, when the committee took its vote on this bill I was present but I did not vote because I had a number of questions and concerns about the bill. Well, one of my concerns, I discovered after the bill was passed out of committee, has to do with something that could have been very easily overlooked, and that is the last page of the bill provided for the repeal of what has been referred to as the jailhouse witness statute and the jailhouse, for lack of a better term, snitch statute. Those were pieces of legislation that this body, I believe, rightfully adopted several years ago. The jailhouse witness statute was formerly found in 29-1928 and 29-1929. And what those sections provided for were imposed obligations on prosecuting attorneys to disclose to defense counsel within a specified period of time whether they were going to use what is specifically defined in the statute as a jailhouse witness, what that jailhouse witness' previous testimony has been against defendants, whether that jailhouse witness had ever recanted his or her testimony. When I realized that the bill was calling for the repeal of that section, I immediately brought it to the attention of the committee and advised that that was something that was not acceptable. And in fact, quite frankly, really had nothing to do with what was the expressed intent of both pieces of legislation that formed the prime part of this bill, and that was punishment and prevention and intervention, but went to trying to alter what I considered the balance of power in terms of rights of an accused and the ability to receive a proper defense. I want to thank Senator Lathrop because he, too, recognized that there was a concern, particularly with 29-1928 and 1929 being repealed. Senator Lathrop undertook to try to arrive at some type of compromise to address that issue. He worked exhaustively with representatives from the County Attorneys Association and representatives of the Defense Attorneys Association, as well as the Attorney General. And the understanding that was reached as a result of those discussions was that the substance of former Sections 29-1928 and 29-1929 would be retained but moved into the discovery section of the statutes. And the practical effect of that is, rather than imposing a duty upon the prosecuting attorneys to make information regarding jailhouse witness testimony

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available to defense counsel within a specified number of days by placing it in the discovery statute, it just shifts the burden to the defense attorneys to request that information as a part of their discovery request. And it was my understanding that that was the agreement that had been reached with regard to the jailhouse witness provision of this law and it was agreeable. But when the amendment was prepared, most of the jailhouse witness statute was moved over into the discovery statute. But there was a convenient change of the definition of a jailhouse witness to exclude from that definition defendants who may be out on bail and they're not actually in the physical custody of law enforcement at the time, but for all intents and purposes they are in the custody of law enforcement. So the first part of AM1392 is to just revise the section of LB63 that speaks to the jailhouse witness and just brings over the definition of jailhouse witness that is provided for in current statute. That is what was agreed upon by all the parties involved when the legislation was originally passed. And quite frankly, that should be the standard that should be applied when we're talking about using jailhouse witnesses. The Legislature stated its intent and belief that jailhouse witness testimony can inherently be unreliable and, for those reasons, there ought to be certain safeguards associated with jailhouse witness testimony. So the first part of AM1392 does not alter the agreement that was arrived at after negotiations, led by Senator Lathrop, that resulted in just the movement of the jailhouse witness standards over into the discovery. All it does is make that consistent with the former language of those sections on the definition of jailhouse witness. The second part of the amendment is a little more significant because here again it wasn't until the very last page of the bill in its original form do you find that one of the intents of LB63 is to repeal the jailhouse informer statute. And for those senators who have been here for some time, you know that the jailhouse informer statute prohibits law enforcement from using incarcerated individuals, individuals who are currently on parole, and individuals who are currently on probation as undercover agents or informants. And I want to tell you there's a reason for that prohibition. Earlier in today's debate on LB63 we've talked about the need to have alternative forms of sentencing. We've talked about community corrections. And one of the objectives of community corrections is to provide alternatives to incarceration and those alternatives include probation. Those alternatives to lengthy incarcerations include parole where the individual has satisfied certain program requirements while they're incarcerated and commit to continue to comply with certain program requirements once they are on parole. Senator Carlson can attest to the fact that we were in a meeting with representatives from the Department of Corrections and representatives from the Parole Board recently and, without exception, they all agreed that the recidivism rate is dependent... [LB63]

SENATOR CARLSON: One minute. [LB63]

SENATOR COUNCIL: ...in large measure on who people associate with. So one of the conditions that's always found in probation and parole is that you not associate with individuals who are known to engage in illegal activity and who are known to have been

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ex-offenders. By repealing this prohibition, you're actually encouraging individuals to be engaged in activities that will lead and increase their risk of reoffending. We should not be employing people who are on probation and who are on parole and who we are expressly directing not to affiliate with individuals involved in criminal activity. We're encouraging them to do just that. I would urge you to adopt the amendment, that we can go back to the status quo with the exception of no longer imposing the duty on the prosecutors to give information to defense counsel within certain days. The burden now is on defense counsel to request that information. [LB63]

SENATOR CARLSON: Time. [LB63]

SENATOR COUNCIL: I think it's reasonable. [LB63]

SENATOR CARLSON: Thank you, Senator Council. You've heard the opening on AM1392. Those wishing to speak: Senators Friend, Howard, Lathrop, and Council. Senator Friend, you're recognized. [LB63]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. My reading of this amendment indicates to me that we're actually removing a requirement that a jailhouse witness actually be in physical custody. All right. Here's the way I see this right now, and I wasn't sitting in the Judiciary Committee to go through any of this, but here's what I understand about the previous discussions and where we're at, at this moment. If AM1392 is actually stripping compromise language that the Judiciary Committee came up with, then I've got a serious problem with this amendment and I won't support it. And if that's the case, if we're actually moving either away from the compromise or if we're stripping language that was the intent either of the Judiciary Committee, Senator Ashford, myself, and for that matter even the Attorney General's Office, if that's the case, then what we're doing here is putting ourselves in a situation where we were right before we started. There's a reason that this language...first of all, it's also my understanding that this took a long time. I mean there's been some difficulty over this. Fair enough. Not exactly sure where to go, except to tell you that it's...there's no doubt it's an understanding, my understanding that Nebraska is the only state that has a law like this, that law being 29-2262.01, "A person placed on probation by a court of the state of Nebraska, an inmate of any jail or correctional or penal facility, or an inmate who has been released on parole, probation or work release shall be prohibited from acting as an undercover agent or employee of any law enforcement agency of the state or any political subdivision. Any evidence derived in violation of this section shall not be admissible against any person in any proceeding whatsoever." What happens if an inmate is killed by other inmates? Think about that. In 2006, there was a case in Seward where an infant was killed and buried by his father. The mother, who was an inmate at York, called the father who admitted to killing the son. None of that...unless I'm wrong, if we monkey with this in the way that we feel like, you know, messing with it, none of that confession could have been...I know this now, none of that confession

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could be used under current circumstances to arrest the father or prosecute the father because the mother was in jail when she made that call. And with this compromise, it's my understanding that we can use a jailhouse informant in a different manner. I guess what I'm getting at is I don't really know what we're trying to accomplish with this amendment. [LB63]

SENATOR CARLSON: One minute. [LB63]

SENATOR FRIEND: The courts already imposed exacting tests, what I would call exacting tests, on the credibility and reliability of confidential informants. There's no reason to legislate this any further. Members, I'll listen to some of this discussion. But I have huge reservations about this amendment. I don't know what the rest of the Judiciary Committee members think, but obviously I'm still here. My light works and I'm going to move forward in this discussion, if need be. At this moment I would ask for the defeat of AM1392. We can get rid of this and move on with this bill. Thank you, Mr. President. [LB63]

SENATOR CARLSON: Thank you, Senator Friend. Senator Howard, you're recognized. Senator Howard. [LB63]

SENATOR HOWARD: Yes. [LB63]

SENATOR CARLSON: You're recognized. Senator Howard waives. Senator Lathrop, you're recognized. [LB63]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I do want to...not really standing in support or opposition but maybe in clarification, at least initially. I do have some thoughts about the underlying bill and Senator Council's amendment. But I think the first thing I need to do is to talk to you about the process that we were engaged in, because I don't think Senator Council has tried to misrepresent where we ended up, but maybe I didn't keep her in the loop enough as we were going through the process. Senator Chambers, in his time here, passed two statutes. One basically provided for how do we handle as a matter of discovery for prosecutors and defense lawyers those situations in which a prosecutor wants to use someone who is generally regarded as a jailhouse informer. Now you think about that, jailhouse informer, the name would imply that they pull some guy out of jail and they give him a deal and he snitches on the guy in the cell next to him. It encompasses an awful lot more than that and that's what Senator Chambers managed to get through this Legislature in his time here. The second bill that he had in statute related to a prohibition against using parolees and probationers for a jailhouse informer or snitch. LB63 came to the Judiciary Committee with a repeal of both of those sections in there. And it struck me, as a member of that committee, that we were going a little overboard or that the repeal was unnecessary, that defense lawyers fairly should know if one of the prosecution's witnesses are going to be a snitch,

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somebody who's getting a deal. Because, regardless of what you think of the law and regardless of where you're at on law enforcement, these people are universally, universally difficult witnesses, prone to lying because somebody is giving them less time in jail and now they have an inducement to say about anything anybody asks them to say. I went back and forth with...originally the idea was, instead of making it the prosecution's burden to provide the enumerated information to the defense lawyer, we put it in...we put some of these things back into the law but made it the defense lawyers' burden to ask for it. And I think that's probably where I visited with Senator Council and where she understood the direction I was trying to go in when we worked on this bill. What happened next was several different meetings with prosecutors and defense lawyers where I mediated it because I really don't understand this information any better than probably any of you do. But I tried to bring prosecutors and defense lawyers together and the Attorney General to work on what language we should have in the discovery statute when the prosecutor intends to put somebody on the stand that is a jailhouse informer. This bill now has what we ended up with. Does Senator Council have a good point? I think she does. Did Senator Chambers have a good point when he brought this to us? I think he did and that is we're talking about people who are typically felons. Okay? So think about these people we're talking about. They are folks who are felons, they're sitting in jail and somebody says to them...or maybe they are somebody that was involved in the crime with the accused, they could be somebody that was charged with selling a bunch of marijuana, but they happen to know the guy that burglarized the gun store. Whatever it is, they have all the reason in the world, the inducement,... [LB63]

SENATOR CARLSON: One minute. [LB63]

SENATOR LATHROP: ...to lie. And they are unreliable witnesses. And a defense lawyer in fairness, as a matter of due process, and the constitution and the interpretation of the due process clause in certain criminal cases recognizes that a defense lawyer ought to know about these things. Senator Chambers' statute goes a little bit further than what the reported cases do. And I think Senator Council's attempt today is to return us to where Senator Chambers had jailhouse informers before LB63 came along. I was involved in working on this with the Attorney General, county attorneys, and the defense lawyers, and this is the end product. It is a function not so much of compromise, although there was a little compromise, there wasn't a lot of support for retaining Senator Chambers' statute. And LB63 is the product of that effort. So I felt compelled to stand up and explain the negotiations that went on, who was involved and... [LB63]

SENATOR CARLSON: Time. [LB63]

SENATOR LATHROP: ...how we ended up with LB63. Thank you. [LB63]

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SENATOR CARLSON: Thank you, Senator Lathrop. Senator Council, you're recognized. [LB63]

SENATOR COUNCIL: Yes, thank you, Mr. President. First, with regard to Senator Friend's comment, there's nothing in LB63 as it exists now, there's nothing in LB63 without repealing 29-1928 or 29-1929 that would prohibit a witness...an individual who has information like that which you related, a mother who received a phone call, there's nothing in my amendment that says that that couldn't be used as testimony if it was obtained lawfully. That's not the point here. I mean, the question was asked, you don't know what the intent of my amendment is. I don't know what the intent of including this language in LB63 was from the beginning. Interestingly enough, when LB63 was introduced to the Judiciary Committee, there was absolutely no testimony provided with regard to the jailhouse witness or the jailhouse informer. All of the discussion, even by the introducer of the bill, was with regard to the enhancement of the penalties and with the criminalization of street gang conduct. As I indicated, in rereading the bill carefully, I discovered that it was repealing the jailhouse witness statute and repealing the jailhouse informer statute. Upon learning that, I shared my concern. And Senator Lathrop has set out what occurred accurately, with one exception. And the one exception, and maybe it was my misunderstanding, Senator Lathrop, the one exception, because I engaged in the conversation with particularly representatives of the defense attorneys, and the statement that there was not a lot of support for retaining Senator Chambers' legislation, you're right, there was not a lot of support from the Attorney General or the county prosecutors, but that was it. There was concern by the defense attorneys about eliminating Senator Chambers' bill. And the defense attorneys gave a lot of ground when the understanding reached was, okay, move the jailhouse witness language from the mandatory requirements of disclosure by the prosecutor and put it in the discovery. And that's what I was told, we're just going to move it over. But in moving it over they altered the language of the statute to fit the Attorney General's and the defense and the county prosecutors' desires. In fact, when I discovered that they hadn't moved it over in its entirety and I contacted the representative of the defense counsels, he expressed his concern because his understanding was like my understanding, they were just going to move it from 29-1928 and 1929 and move it into the discovery statute. That didn't happen. And knowing that I had been involved peripherally, if you want to call it that, in the discussions, no one bothered to tell me that. I had to discover that. And upon discovering that and said, well, wait a minute, when you asked me whether I was comfortable with the agreement and the understanding that was reached, yes, I was comfortable with what I was told was going to occur. That did not occur. And again, what is the intent... [LB63]

SENATOR CARLSON: One minute. [LB63]

SENATOR COUNCIL: ...of eliminating the jailhouse informer language, that whole section? I'll tell you what, the Attorney General and the county attorneys didn't like it

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when it was first passed and, quite frankly, I was told, oh boy, Senator Chambers is not here, we got a chance of getting rid of this. Nothing to do with preventing crime, nothing to do with reducing crime, nothing to do with eliminating crime; we didn't like it and now we got a chance to get rid of it. Well, the fact of the matter is, by getting rid of the jailhouse informer statute, you are increasing the possibility of offenders reoffending. Because the only way they can act, operate successfully as paid undercover agents is to affiliate with known criminals. [LB63]

SENATOR CARLSON: Time. [LB63]

SENATOR COUNCIL: Now if you look at LB63, if they associate with three of them, it's a RICO violation. [LB63]

SENATOR CARLSON: Thank you, Senator Council. Senators still wishing to speak: Senators Lautenbaugh, Friend, Campbell, and Council. Senator Lautenbaugh, you're recognized. [LB63]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I do rise in opposition to this amendment. And let me clarify at the outset, this was not brought because Senator Chambers was gone and we saw a chance to undo something just for the sake of it having been Senator Chambers' accomplishment. We are undoing it because it was overreaching and it was wrong and because I fought against it last year. And that's why I oppose this amendment that would undo what LB63, as it currently reads, would do. I argued last year on the floor with Senator Chambers about this because there was a change in it again last year. And as I read it, we were charging the prosecutors and the police with almost infinite knowledge and an infinite duty of disclosure. If, as the hypothetical I used was, if they stop someone at a crime scene and said...who was also committing some trivial crime and said, hey, we won't run you in for whatever it is you're doing if you'll tell us what happens here. And he finds out...they find out that there's no real underlying crime, they let the guy go after he gives them the information, that's something that would have to be disclosed later if the guy ever was used as an informant on another crime, on another matter. That's how far the existing law reached. It said, anything known to the prosecutor, county attorney or the police. And I asked the question, what does known to the police mean? How do we know who knows it sufficiently for the police to know it? And the only reasonable interpretation I could come up with was if any police officer or any county attorney is aware of some prior cooperation for a benefit that some current witness gave, there's a duty to disclose. So this absolutely, positively has to do with fighting crime. And don't let anyone tell you that we are doing this just to repeal something that Senator Chambers did. What we did before went way too far. And I fought it last year and I almost had my first filibuster going last year. And I was told, well, you'll have an easier time fixing this next year. Someone else brought the bill but that doesn't mean it's not something that I believe desperately needs fixing. And this amendment takes us back to what Senator

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Chambers wanted and what was previously enacted and which went too far. It was unique in the 50 states, unique, and it was a burden on our law enforcement, it was a burden on our prosecutors, unnecessarily so. And this bill came before Judiciary and Senator Lathrop had some issues with it. And I applaud the work he did here. He met with the county attorneys. I believe he met with public defenders. I know he met with representatives of the defense attorneys and they worked out the current language that's in the bill. And I applaud Senator Lathrop for doing that. This is a compromise, what we have in LB63, and this amendment upsets that compromise. I'm not saying that means someone shouldn't bring an amendment. I'm saying that's why I oppose this amendment, is because people on all sides of the issue came together, addressed the defects with the existing law and came up with what you find in LB63. And I applaud their work and I support their work. And for that reason, I cannot support this amendment. Thank you, Mr. President. [LB63]

SENATOR KARPISEK PRESIDING []

SENATOR KARPISEK: Thank you, Senator Lautenbaugh. (Visitors introduced.) Moving on, on AM1392, Senator Friend, you are recognized. [LB63]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. Been listening and, of course, been going through the amendment again and also going through current law. This isn't a gotcha idea. I had a general understanding of what we were trying to accomplish during the committee hearing. And the information and what we were trying to accomplish was available at that committee hearing. Now the work that Senator Lautenbaugh was pointing out that the committee has done has happened since then. But I think this is a bad idea because...not because this amendment is a bad idea, not because I don't understand Senator Council's point, I do. I understood Senator Chambers' point too. I just thought the original law was a bad idea. So if what we're talking about here, if this actually remove the requirement that a jailhouse witness be in physical custody, if it expands the definition to include criminal suspects and persons detained for questioning, it's an extreme provision. If we're...if a jailhouse witness should be incarcerated in some manner at the time he or she came into possession of incriminating information about another, the amendment removes that requirement, it's my understanding, and expands the classification to include anyone who has been a suspect or who has been detained for questioning, regardless of when that...when they obtained that information or what the information happened to be. Further, if a person had received a reduction, this would be an example, I think, if a person were to receive a reduction in a speeding ticket and later witness a murder, would that person be a jailhouse informant? It can be argued that this amendment may be trying to expand the jailhouse witness definition to that extent. The definition defies logic. I don't...I mean, and look, I'm not going to piggyback necessarily on what Senator Lautenbaugh said, only to say that I had plenty of time in here with Senator Chambers to do to him or with him anything I wanted. And by the way, now that he's gone, I mean, is there



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anything...this isn't a gotcha for him. There were probably ten things that I can think of that he has done. I could have brought bills this year and done it without him here. I think that...that's not...that's a nonstarter to me. Section 29-2262.01, the contention is, is bad law. This is a...this is a tough discussion because of what Senator Lathrop and Senator Council have described. It's a tough subject because what you're talking about are a bunch of people you don't trust anyway, right? How do you solve crimes and...but what choices do we have under some circumstances? How do you solve crimes in jails among people who are... [LB63]

SENATOR KARPISEK: One minute. [LB63]

SENATOR FRIEND: ...of that background and environment or they just don't want to adhere, you know, to the types of things that law-abiding society adhere to? How do you solve those type of things unless you have the ability to deal with it in an effective manner? I don't even know where else to go with this. I could give you examples of things that have happened recently, weeks ago, some of the problems that Don Kleine has faced in Omaha, for example, but I don't know that I need to. I'd be interested in hearing more discussion, but once again, I would ask for the eventual defeat of this amendment, AM1392. Thank you, Mr. President. [LB63]

SENATOR KARPISEK: Thank you, Senator Friend. Senator Campbell, you are next and you are recognized. [LB63]

SENATOR CAMPBELL: Thank you, Mr. President. I, like most of my colleagues, will oftentimes sit and listen to the discussion, and then someone will say something and you'll go...there's a little bell that goes off and says, pay attention, pay attention, really pay attention. This past summer several officers of the Lincoln Police Department visited with me about the passage of the bills last summer. And so when Senator Council began to discuss this, I thought, oh, my goodness, this is exactly what they had visited with me about. I have a question and my question is to Senator Friend. Would you entertain a question, Senator Friend? [LB63]

SENATOR KARPISEK: Senator Friend, would you yield for a question? [LB63]

SENATOR FRIEND: Yes, I will. [LB63]

SENATOR CAMPBELL: It was my understanding, in discussion with the police officers, that law enforcement had been involved in the conversations on what would eventually become LB63. Is that accurate, Senator? [LB63]

SENATOR FRIEND: The repeal...the repeal of the...let me answer it this way. The repeal of this law has been a number one priority for law enforcement in this state. The Police Officers' Association, police chiefs association, Sheriffs Association, so I would

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answer that question in the affirmative, yes. I think it is important to them and it's been, like I said, it's been a number one priority. [LB63]

SENATOR CAMPBELL: Thank you, Senator Friend. I would encourage all of my colleagues in the Chamber that are just like me. I'm not an attorney. I probably don't know all the intricacies of the law at times that is brought before us. But I would heartily encourage us to pay attention and perhaps do some research and discussion with our local communities on this amendment. Thank you, Mr. President. [LB63]

SENATOR KARPISEK: Thank you, Senator Campbell and Senator Friend. Senator Council, you are recognized, and this is your third time to speak. [LB63]

SENATOR COUNCIL: Thank you very much, Mr. President. Senator Friend, would you yield to a question? [LB63]

SENATOR KARPISEK: Senator Friend, will you yield? [LB63]

SENATOR FRIEND: Yes. [LB63]

SENATOR COUNCIL: You stated 29-2262.01 is bad law. Why? [LB63]

SENATOR FRIEND: Well, I think that the courts already impose exacting tests on witnesses, and I think court officers can too. [LB63]

SENATOR COUNCIL: Section 29-2262 has nothing to do with witnesses. Section 29-2262 refers to the employment by law enforcement of probationers and parolees. What about that prohibition is bad law? [LB63]

SENATOR FRIEND: Well, do you think that an inmate of any jail or correctional or penal facility or an inmate who has been released on parole, undercover agent, do you think that when it says at the end any evidence derived in violation of this section from those people shall not be...what would you not...what would you call them if you didn't call them witnesses to something if you're trying to derive evidence from somebody? [LB63]

SENATOR COUNCIL: Well, that's just the point, Senator Friend. The bill doesn't talk about them being witnesses. The bill talks about them being employees of law enforcement, not simple witnesses. And when we're talking about employing parolees and probationers, the very people that we place conditions and restrictions on who they associate with, we want to pay them to involve themselves in that situation in violation of everything that research tells us will lead to reoffending, but this prohibition is bad law because if they are paid informants on parole or probation, that testimony can't be used. That's what makes it bad law. [LB63]

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SENATOR FRIEND: Well, no, not in particular. I mean I'm not sure exactly...I would...you could rephrase the question if you want because I'm not exactly sure what the question is, based on your...based on how that went. [LB63]

SENATOR COUNCIL: All right. Well, my question was simple to Senator Friend which was, what made 29-2262.01 bad law? Would Senator Lautenbaugh yield to a question? [LB63]

SENATOR KARPISEK: Senator Lautenbaugh, will you yield? [LB63]

SENATOR LAUTENBAUGH: Yes, I will. [LB63]

SENATOR COUNCIL: Senator Lautenbaugh, in 29-1928 and 29-1929 that you advised that during the debate of those pieces of legislation in previous years you objected to the burden that it imposed upon prosecutors with regard to statements or previous testimony that had been given by such jailhouse witnesses in the past, is that one of your concerns? [LB63]

SENATOR LAUTENBAUGH: Yes. [LB63]

SENATOR COUNCIL: Okay. Have you read LB63? [LB63]

SENATOR LAUTENBAUGH: Yes. [LB63]

SENATOR COUNCIL: Have you read the section where the county attorneys and the Attorney General's representative and the public defender's representative agree to transfer everything from 29-1928 and 29-1929 over into the discovery statute with some amendment? Is that your understanding of what occurred? [LB63]

SENATOR LAUTENBAUGH: Generally, yes. [LB63]

SENATOR COUNCIL: Okay. And the only change that my amendment addresses is the fact that in representing that they were going to move over into the discovery statute, which relieves the prosecutors of the burden, because that was one of their complaints... [LB63]

SENATOR KARPISEK: One minute. [LB63]

SENATOR COUNCIL: ...was that they had to disclose all this information within ten days and they prefer to have it in the discovery section where the duty then is on the defense counsel to request it. The only thing my bill changes is it defines a jailhouse witness as it was previously defined and erroneously stated: It says, "a person detained for questioning regarding an event for which such person received a deal, promise,

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inducement, or benefit." So we're not talking about the exaggerated example that was given of somebody being detained for a ticket and then being questioned about a murder. The statute is very clear: a person detained for questioning regarding an event for which the person received a deal, promise, inducement, or benefit. They're not receiving an inducement or a benefit... [LB63]

SENATOR KARPISEK: Time. [LB63]

SENATOR COUNCIL: ...with regard to the ticket. [LB63]

SENATOR KARPISEK: Thank you, Senator Lautenbaugh, Senator Friend, and Senator Council. Senator Nantkes, you are next and you are recognized. [LB63]

SENATOR NANTKES: Thank you, Mr. President. Thank you, colleagues. I rise in support of Senator Council's amendment and really for two reasons. Number one, I think it's important to be accurate when we speak on the mike. And all due respect to Senator Friend, the example that he brought up involving the Lucas Peterson case from Seward, Nebraska, had nothing to do with jailhouse informants. The reason that the prosecutors were unable to move forward was in relation to the violation of a cooperation agreement between the defendant and the prosecuting attorneys, and additionally based on Fourth Amendment violations, including a lengthy discussion of the theory based on the fruit of the poisonous tree, which is a traditional theory within Fourth Amendment doctrine. So to be clear, particularly considering that's my home community and that case itself was incredibly emotional for that community, I think that we shouldn't try and capitalize on opportunities to jump forward and utilize emotions in probably an inappropriate context, as Senator Friend tried to do in talking about this amendment originally. So I think we have to be accurate for the record that this amendment does really not speak to those issues that he had mentioned earlier. And I'd be happy to have him correct the record maybe after he had a chance to fully read that case or to get a better understanding of it. The judge's opinion is available pretty widely so I think that if people are interested in that they can look at that. And then secondarily, I wanted to talk about the general public policy issues surrounding this legislation, this amendment in particular. And, colleagues, the reason why there needs to be additional regulation and additional care and caution taken when dealing with jailhouse informant testimony is because it's inherently unreliable in many, many contexts. And because the stakes are so high in criminal prosecutions, it's important that we have procedural safeguards available to protect the rights of the defendant and to protect the rights of...or not the rights but so that the attorneys who are seeking to prosecute the case on behalf of the state and then also those who are seeking to protect the rights of the individual defendant have a clear understanding about how that framework is going to be in which they are asked to operate. And the reason that Senator Chambers had moved forward so passionately on this issue and why ultimately this body made a public policy decision to adopt that legislation was for that very reason--because of the

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surrounding and inherent nature of unreliability that comes with that kind of information. To draw an example from current events, we've heard a lot of discussion in the national media about whether or not the United States should engage in a policy of torture. And if you put aside the human rights arguments for a moment, but instead listen to people like Senator McCain, he makes a very practical argument that the reason the United States shouldn't torture is because the information we get is inherently unreliable because the stakes are so high and it sets up a false premise that elicits generally unreliable information. Well, colleagues, that parallel can be drawn in terms of thinking about jailhouse informant testimony. The jailhouse informant has a great deal to gain--a lesser sentence, a reduction in sentence, a reduction of time served--by cooperating and potentially manufacturing evidence against other criminal defendants. And that's why we have to look with such a careful, careful eye... [LB63]

SENATOR KARPISEK: One minute. [LB63]

SENATOR NANTKES: ...towards any information presented from these witnesses and in this fashion. So I think just in closing, and I hope Senator Friend does have a chance to review that Peterson case and the decision and make clear for the record that that was not about jailhouse informants. The reason that people were unable to move forward in that prosecution was based on a cooperation agreement and based on a Fourth Amendment violation issue. They're separate and distinct from what's at issue in this case. And then secondarily to remember the public policy that this body has already decided, that this type of information needs to be carefully safeguarded because it is inherently unreliable and, thus, should not be used overbroadly in terms of criminal prosecutions. Thank you, Mr. President. [LB63]

SENATOR KARPISEK: Thank you, Senator Nantkes. Seeing no other senators wishing to speak, Senator Council, you are recognized to close on your amendment. [LB63]

SENATOR COUNCIL: Thank you, Mr. President. I appreciate the debate on this issue. And I hope that everyone, whether you participated in the debate or not, listened carefully to what the purpose and intent of AM1392 is. If you look at LB63 with the E&R amendments, ER8031, which incorporate for the most part the agreement that was reached by the parties, not the committee...this was something that occurred outside of the committee in an attempt to address this issue, brought back to the committee, and the committee amended. Now if you look at the vote on the advancement of LB63, I was present. I did not vote because there were concerns when we merged these bills together because they were two very large bills. But if you look at the only changes that are being made by this amendment, one, all it does is retain the current definition of what a jailhouse witness is. All of the other provisions of the jailhouse witness statute remain as negotiated by the parties. And one of the understandings that was conveyed to me from that negotiation was that the language was going to be transferred over in its entirety. And despite the fact that in several sections that did not occur, I was willing to

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agree to accept that language. But the main thing that was represented that did not occur was the maintenance of the definition of a jailhouse witness. And I think that that is extremely important. Police have the ability and the authority to detain people who are not in their physical custody and to interrogate them. This provides protection. If there's testimony that's going to be offered by those individuals all this statute says is the prosecuting attorney, if requested by the defense attorney, has to provide them with information regarding that jailhouse witness and whether they've been jailhouse witnesses in the past. It doesn't prevent them from introducing that jailhouse witness' testimony. It just sets forth, if you're using a jailhouse witness and the defense counsel requests discovery, you have to provide that information. That's just fairness and justice. Now on the other hand, on the repeal of the probation and parolees, that's the...commonly referred to as the jailhouse informer. That's a little different situation. And I submit to you, particularly after the meeting of...the recent meeting of the Community Corrections Council, members of the Community Corrections Council expressed great concern about repealing 29-2262 because the greatest risk of reoffending is by people who continue to associate with those who are engaged in illegal activities. And under 29-2262, we are allowing law enforcement...we're allowing law enforcement to literally violate the terms of these individuals' probation,... [LB63]

SENATOR KARPISEK: One minute. [LB63]

SENATOR COUNCIL: ...to violate the terms of their parole because, standing alone under probation or under parole, they are prohibited from associating with known criminal offenders. Yet here we reward that. We reward a violation of the very terms of their parole and probation. And then we sit in this body and wonder why we have such a high recidivism rate. I assure you that the world won't stop and criminal prosecutions won't cease to occur if this amendment is passed. I urge you to adopt AM1392. [LB63]

SENATOR KARPISEK: Thank you, Senator Council. You have heard the closing on AM1392. The question is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. 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; all those opposed vote nay. Record, Mr. Clerk. [LB63]

CLERK: 36 ayes, 0 nays, Mr. President, to place the house under call. [LB63]

SENATOR KARPISEK: 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. Senators Lathrop, Pankonin, and Christensen, please return to the Chamber. The house is under call. Senator Council, we're still waiting on Senator Lathrop. How would you like to proceed when he is present? [LB63]

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SENATOR COUNCIL: Roll call vote. [LB63]

SENATOR KARPISEK: In regular order? Mr. Clerk, all senators are accounted for. Would you please call the roll. [LB63]

CLERK: (Roll call vote taken, Legislative Journal page 1434.) 11 ayes, 25 nays, Mr. President, on the amendment. [LB63]

SENATOR KARPISEK: AM1392 does not advance. Mr. Clerk, on the bill. I'll raise the call of the house. [LB63]

CLERK: I have nothing further on the bill, Mr. President. [LB63]

SENATOR KARPISEK: Senator Nordquist for a motion. [LB63]

SENATOR NORDQUIST: Mr. President, I move LB63 to E&R for engrossing. [LB63]

SENATOR KARPISEK: You have heard the motion. All those in favor say aye. All opposed, nay. LB63 is advanced. Next bill, Mr. Clerk. [LB63]

CLERK: Mr. President, LB63A on Select File. No Enrollment and Review. I do have other amendments. Senator Ashford, Senator, I have AM1108, but I have a note you want to withdraw that. [LB63A]

SENATOR ASHFORD: Correct. [LB63A]

CLERK: Mr. President, Senator Ashford would move to amend the bill with AM1385. (Legislative Journal page 1418.) [LB63A]

SENATOR ASHFORD: Yes, that's correct. Thank you, Mr. President. AM1385 is the amendment to the A bill that reflects the discussion we've had earlier today about the transfer of cash fund dollars to the Office of Violence Prevention in the amount of one-time only \$350,000. That substitutes for the \$350,000 out of the \$450,000 that was originally General Fund dollars. There's an additional \$100,000 General Fund which remains the same, remains in the bill. AM1385 would allow the Nebraska Commission on Law Enforcement and Criminal Justice the authority to award grants from the \$350,000 that was transferred to the Office of Violence Cash Fund to an organization that has submitted a violence reduction plan that meets the intent of LB63. And the amendment also makes it clear that the money can be made available immediately upon the signing of the bill into law. AM1385 would also provide an additional \$90,000 in spending authority from the Community Corrections Uniform Data Analysis Cash Fund to the Crime Commission for Program 220, which is the statistical data function that we discussed earlier in the day. So there would be spending authority that the

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council could utilize. Let me, in addition, let me make a couple of comments on the debate we've had this afternoon. This is a big bill and there are numbers of initiatives in there, in LB63 as amended and the A bill which deals primarily with the prevention side of this. As I said early in my discussion of this bill, it is a shift, in my view, in focusing attention on prevention and intervention. But there is also things that are not done in this bill. And one of the things that is not addressed in this bill, was never intended to be addressed, is the issue of sentencing, the issue of probation, the issue of parole, and how that impacts our state, both from a social perspective, from a criminal justice perspective, and from a financial perspective. Those issues are really not dealt with in LB63. We are dealing with law enforcement issues here and enforcement issues and prevention issues. The third part of this sort of criminal justice puzzle is the issue of punishment and sentences and how do we do that and how do we treat people who have been incarcerated or how do we treat people that are on parole or probation. I'm not going to get into what Senator Council talked about today because it's a very complex issue. But it is an issue that we need to continue to look at and address. I would tell this body that the Judiciary Committee is going to propose to the Legislature that we have set...that we set up a commission immediately upon the adjournment here and get to work on all of these other issues that have impact on our state and including the issues that Senator Council has brought up today and in prior discussion--I'm not...this is not just a way to toss that away or toss it off or minimize it--and then next year hopefully come to this body with a comprehensive initiative on this whole idea of punishment and how it relates to criminal justice, and I can...as we did last year with the issue of immigration and trying to bring a comprehensive set of proposals to this body that they can reflect upon and hopefully act upon. Again, I'm not trying to minimize the importance of these issues that have been brought up in the discussion today. Anytime you open up these statutory sections, when you start talking about these issues that impact people in a very real way every day, they become very difficult and they're very difficult to resolve. Again, we're dealing here with enforcement, hopefully expanding the idea of enforcement to include prevention and intervention in state law, and then over the summer work very, very hard on some of these other very complicated issues involved with sentencing, probation, parole, and incarceration. With that, Mr. President, I would urge the adoption of the A bill, LB63A, with AM...I'm sorry, we're first at AM1385 and then the advancement of LB63A as amended. Thank you. [LB63A LB63]

SENATOR KARPISEK: Thank you, Senator Ashford. Seeing no lights on, Senator Ashford, you are recognized to close on your amendment. Senator Ashford waives closing. The question before the body is the adoption of AM1385. All those in favor vote aye; all those opposed vote nay. Has everyone voted who wishes to? Please record, Mr. Clerk. [LB63A]

CLERK: 30 ayes, 1 nay, Mr. President, on the adoption of Senator Ashford's amendment. [LB63A]



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SENATOR KARPISEK: AM1385 does advance. [LB63A]

CLERK: I have nothing further on the bill, Mr. President. [LB63A]

SENATOR KARPISEK: Senator Nordquist for a motion. [LB63A]

SENATOR NORDQUIST: Mr. President, I move LB63A to E&R for engrossing. [LB63A]

SENATOR KARPISEK: You have heard the motion. All those in favor say aye. Opposed, nay. LB63A does advance. Items for the record, Mr. Clerk. [LB63A]

CLERK: Yes, Mr. President. Before we proceed, Enrollment and Review reports LB9, LB112, LB187, LB195, LB232, LB246A, LB342, LB342A, LB476, LB476A, LB671, and LB671A as correctly engrossed. Study resolutions: Senator Avery, LR126 and LR127; Senator Langemeier, LR128; Senator Pahls, LR129; all study resolutions, all to be referred to the Executive Board. That's all that I had, Mr. President. Mr. President, if I may, Senator Ashford, did you want to do your Exec Session or are you going to defer on that, Senator? Mr. President, the Judiciary Committee will have an Executive Session underneath the north balcony; Judiciary Committee, north balcony. (Legislative Journal pages 1434-1437.) [LB9 LB112 LB187 LB195 LB232 LB246A LB342 LB342A LB476 LB476A LB671 LB671A LR126 LR127 LR128 LR129]

SENATOR KARPISEK: Thank you, Mr. Clerk. Next bill on the agenda. []

CLERK: Mr. President, LB392. Senator Nordquist, I have Enrollment and Review amendments. (ER8125, Legislative Journal page 1388.) [LB392]

SENATOR NORDQUIST: Mr. President, I move...sorry. [LB392]

SENATOR KARPISEK: Senator Nordquist for a motion. [LB392]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB392. [LB392]

SENATOR KARPISEK: You have heard the motion. All those in favor say aye. Opposed, nay. E&R amendments are advanced. [LB392]

CLERK: Senator Adams would move to amend. Senator, I have AM1393. (Legislative Journal page 1438.) [LB392]

SENATOR KARPISEK: Senator Adams, you are recognized to open on AM1393. [LB392]

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SENATOR ADAMS: Thank you, Mr. President, members of the body. What this is very simply is a technical correction. It corrects a problematic cross-reference that we have in the bill. It's really that simple. Thank you, Mr. President. [LB392]

SENATOR KARPISEK: Thank you, Senator Adams. Seeing no lights on, would you like to close? Senator Adams waives closing. The question before the body is voting on AM1393. All those in favor vote aye; all those opposed vote nay. Has everyone voted who wishes to? Record, Mr. Clerk. [LB392]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Adams' amendment. [LB392]

SENATOR KARPISEK: AM1393 does advance. [LB392]

CLERK: Senator Adams would move to amend with AM1395. (Legislative Journal page 1438.) [LB392]

SENATOR KARPISEK: Senator Adams, you're recognized to open on AM1395. [LB392]

SENATOR ADAMS: Thank you, Mr. President, members of the body. This, again, is a very simple thing. It's not quite as technical as the last. Currently, in statute it says that the learning community council will determine how many elementary learning centers will be located within each of the subcouncils by June 1, this upcoming June 1. They have asked for more time. The amendment would give them until September 1. Thank you, Mr. President. [LB392]

SENATOR KARPISEK: Thank you, Senator Adams. Seeing no other lights on, Senator Adams, you are recognized to close. Senator Adams waives closing. You have heard the closing on the amendment. The question is, shall the amendment be adopted to LB392? All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB392]

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator Adams' amendment. [LB392]

SENATOR KARPISEK: AM1395 does advance. [LB392]

CLERK: I have nothing further on the bill, Mr. President. [LB392]

SENATOR KARPISEK: Senator Nordquist for a motion. [LB392]

SENATOR NORDQUIST: Mr. President, I move LB392 to E&R for engrossing. [LB392]

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SENATOR KARPISEK: You have heard the motion. All those in favor signify by saying aye. Opposed, nay. The bill is advanced. Next bill, Mr. Clerk. [LB392]

CLERK: Mr. President, LB263. Senator, I have Enrollment and Review amendments first of all. (ER8123, Legislative Journal page 1387.) [LB263]

SENATOR KARPISEK: Senator Nordquist for a motion. [LB263]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB263. [LB263]

SENATOR KARPISEK: You have heard the motion. All those in favor signify by saying aye. Opposed, nay. The amendments are adopted. [LB263]

CLERK: I have nothing further on the bill, Mr. President. [LB263]

SENATOR KARPISEK: Senator Nordquist for a motion. [LB263]

SENATOR NORDQUIST: Mr. President, I move LB263 to E&R for engrossing. [LB263]

SENATOR KARPISEK: You have heard the motion. All those in favor signify by saying aye. Opposed, nay. LB263 is advanced. Next bill, Mr. Clerk. [LB263]

CLERK: Mr. President, on Final Reading, Senator Council has a motion to return the bill for specific amendment. Prior to that offering, Senator Council would move to suspend the germaneness rule, specifically Rule 7, Section 3(d) to permit consideration of AM1233. [LB440]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Thank you, Mr. Clerk. Sergeant at Arms, please indicate we are on Final Reading. Senator Council, you are recognized first on your motion to suspend the germaneness rule, pursuant to the Rules of the Legislature. [LB440]

SENATOR COUNCIL: Yes, thank you, Mr. President. I am requesting the body to suspend the rule with regard to germaneness to allow debate and consideration of AM1233. AM1233 is an amendment to LB440. If you'll recall, LB440 dealt with scholarships and diversity scholarships offered by our state colleges, the university, and community colleges. The change that was effected or to be effected by LB440 is to be found in Chapter 85. Well, AM1233 affects a section that is also found in Chapter 85, however, it does not deal specifically with scholarships. It deals with construction by our universities, community colleges, and state colleges, and the threshold to be applied before the Commission on Postsecondary Education is required to approve those

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construction projects. The amendment is being offered principally because it is the bill that was introduced by Senator Adams, it was heard by the Education Committee. With an amendment, the Education Committee approved this particular amendment on an 8-0 vote. And it's for that reason that I requested that LB440 be returned to Final Reading to allow for this amendment to be debated and considered. And since one deals with construction at colleges and universities and the other deals with scholarships, I thought that it was best to relieve all doubt as to the question of germaneness by moving to suspend the rule on germaneness. And I hope that the body would support that motion to allow consideration and debate of AM1233. [LB440]

SPEAKER FLOOD: Thank you, Senator Council. Members, you've heard Senator Council's opening on her motion to suspend the germaneness rule. There are no senators wishing to speak. Senator Council, you're recognized to close on your motion. Senator Council waives her opportunity. The question before the body is, shall the Rules of the Legislature be suspended as they pertain to germaneness with regard to AM1233 to LB440? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB440]

CLERK: 33 ayes, 1 nay, Mr. President, to suspend the germaneness rule. [LB440]

SPEAKER FLOOD: The germaneness rule is suspended. [LB440]

CLERK: Mr. President, Senator Council would move to return LB440 to Select File for consideration of AM1233. (Legislative Journal page 1373.) [LB440]

SPEAKER FLOOD: Senator Council, you're recognized to open on your motion to return LB440 to Select File for specific amendment. [LB440]

SENATOR COUNCIL: Yes, I'll be very brief, Mr. President. For the reasons I just stated, it's...the request is being made to allow there to be debate and consideration and hopefully adoption of AM1233 to LB440. [LB440]

SPEAKER FLOOD: Members, you've heard the motion on Senator Council...you've heard the opening on Senator Council's motion. There are no members wishing to speak. Senator Council, you're recognized to close on your motion. Senator Council waives closing. The question is, shall LB440 be returned to Select File for a specific amendment? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB440]

CLERK: 34 ayes, 0 nays, Mr. President, on the motion to return the bill. [LB440]

SPEAKER FLOOD: LB440 is returned to Select for a specific amendment. Senator Council...Mr. Clerk. [LB440]

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CLERK: Senator, AM1233. [LB440]

SPEAKER FLOOD: Senator Council, you're recognized to open on AM1233. [LB440]

SENATOR COUNCIL: Yes, thank you again, Mr. President. Basically, AM1233 is LB103 as amended by the Education Committee. LB103 was introduced by Senator Adams and it basically...AM1233 provides for an amendment of Section 85-1402 to change the expenditure thresholds for capital construction projects of postsecondary educational institutions which would be subject to review, monitoring and approval by the Coordinating Commission for Postsecondary Education. Specifically the bill would increase these thresholds to \$2 million and \$85,000 respectfully. The amendment also limits adjustment of these thresholds due to inflationary or market factors. And both of these thresholds are currently adjusted by the Coordinating Commission on a biennial basis. And with that introduction, I would yield the balance of my time to Senator Adams. [LB440 LB103]

SPEAKER FLOOD: Senator Adams, you are recognized. You have 9 minutes. [LB440]

SENATOR ADAMS: Thank you, Mr. President. Thank you, Senator Council. Members, basically what this is, is that if one of our higher education institutions, community colleges, state colleges, university, are going to do a capital construction project, under current law they must go to the Coordinating Commission to get approval, depending on the price tag and what it's going to cost the taxpayers and the Legislature. Currently, for a capital construction project the threshold is anything over \$500,000. So if it's over \$500,000, a community college, one of the state colleges, the university wants to do a capital construction project then they need to go to the Coordinating Commission to have an architect or member of the Coordinating Commission and the body to review the project. What they're simply asking for in this case is that we raise the threshold from \$500,000 to \$2 million. So there's no expenditure here for the Legislature, it's merely a trigger. They're asking to raise that trigger from \$500,000 to \$2 million before they need to go to the Coordinating Commission to get approval of the project. That's what the amendment amounts to. It did come to the committee. The committee reviewed it. We had a lot of discussion between the community colleges, the state colleges, the university, and the Coordinating Commission about the right thresholds, the timing on this. And this was the compromise that everyone arrived at. Thank you, Mr. President. [LB440]

SPEAKER FLOOD: Thank you, Senator Adams. Senator Friend, you are recognized. [LB440]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. We have a bill here, let me make sure I'm understanding what we've just done and why. We have a

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bill here that...an underlying bill here that deals with absolutely, virtually nothing that the amendment deals with. So we suspended the germaneness rules to get it off of Final Reading. This bill was ready to go, we take it...we suspended the germaneness rules, not to get it off of Final Reading. But we pull it back off of Final Reading in order to put this bill in. And I don't know that I'm troubled by it. But I got to tell you, I was wondering if Senator Adams would actually yield to a couple of questions. And they're not trick questions or anything. [LB440]

SPEAKER FLOOD: Senator Adams, will you answer questions from Senator Friend? [LB440]

SENATOR ADAMS: Yes, I will. [LB440]

SENATOR FRIEND: At least I don't think they're...thank you, Senator Adams. I don't think they're trick questions. How many bills did the Education Committee deal with in this 90-day session, I mean round figure. [LB440]

SENATOR ADAMS: I think in the committee we had 60-65 bills, something like that. [LB440]

SENATOR FRIEND: And I guess the thing begs me...the question is begging me, could we have not have found a home for this particular amendment on, you know, couldn't you have Christmas treed this somewhere in Education? And I have a reason for that question but I'd like to hear the answer, I guess. [LB440]

SENATOR ADAMS: You know, I don't know that we would have had another bill, at least one that was prioritized or that came out early on without a priority or a committee priority. And we did have an educational tech bill that had all kinds of things Christmas treed onto it. And, frankly, I think we had kind of maxed out on that. [LB440]

SENATOR FRIEND: Okay. And I've done the same thing with, you know, crazy Urban Affairs bills. Here's what I'm wondering, I guess a final question. Is...I mean, in your view, it's that important, we have to pull a bill of Final Reading? I mean, I don't think it offends my sense of proportion here, but I mean I'm kind of wondering, this bill, Senator Council's bill was ready to go. And now we're...and I'm not saying this was your idea. I'm saying in the importance realm, I mean, you rate it, I don't know, pretty high? [LB440]

SENATOR ADAMS: I think the fact that it didn't have a priority in and of itself probably says something about this year in committee the level of importance. [LB440]

SENATOR FRIEND: Yeah. [LB440]

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SENATOR ADAMS: I'm not saying it's not an important bill or we wouldn't be here. But it did not have a priority. [LB440]

SENATOR FRIEND: Yeah. Thank you, thank you, Senator Adams. I didn't want to raise...I'm not trying to raise a big deal over this. I think the thing that just occurred to me is we do rarely suspend germaneness rules. We did it for a bill that I helped Senator Avery with because I felt like I dropped the ball and forgot about an item that he had that he wanted for consent calendar. And I thought it was important enough at that particular juncture to do that. I also said at that time I don't think...I don't take it lightly when we suspend the germaneness rules. And I guess it just worried me a little bit. Quite frankly, it wouldn't have worried me if I guess I could come to the conclusion that if this bill doesn't pass, I've used this metaphor before, the birds will not sing tomorrow and the sun will not come up. This is an awful risk to take with a bill, LB440, which I didn't talk much about on General or Select File, that I wasn't that fond of. So let me tell you what somebody with a really, really weird sense of humor would do right now. [LB440]

SPEAKER FLOOD: One minute. [LB440]

SENATOR FRIEND: Thank you, Mr. President. Let me tell you what somebody with a really weird sense of humor or somebody with some savvy would do right now. I would toss everything I could on this if I really didn't like LB440, and I would just beat it senseless. But I don't have a weird sense of humor and I don't have that type of attitude in me. So, members of the Legislature, I will stand down. Mr. President, thank you. [LB440]

SPEAKER FLOOD: Thank you, Senator Friend. Senator Fulton, you're recognized. [LB440]

SENATOR FULTON: Thank you, Mr. President, members of the body. Would Senator Adams yield to a question? [LB440]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Fulton? [LB440]

SENATOR ADAMS: Yes. [LB440]

SENATOR FULTON: Senator, I didn't realize...I read through this amendment and I saw that it was coming. But I didn't know what bill it was until Senator Council made reference to it. And so I've gone to the gadget and pulled up the bill. And I'm confused, so I'm hoping you might be able to alleviate the confusion here. The existing law, this threshold that we're talking about, and this is a threshold for transparency, I guess, for lack of a better term. This threshold at which the commission should be invoked is presently at \$500,000, correct? [LB440]

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SENATOR ADAMS: That's right. [LB440]

SENATOR FULTON: Okay. The bill...it appears that the bill would have moved that threshold up to \$1 million. And then I read the committee amendment...or I'm sorry, the committee statement, which gives an explanation of the amendment. And in that statement it indicates that that threshold would be maintained at \$500,000. Is that correct? [LB440]

SENATOR ADAMS: Let me explain it to you. There's two different programs here. One would be if, let's say for instance we have a dormitory at Wayne State College and they have been collecting some fees money and putting it in a sinking fund to use for remodeling, buying furniture, those kinds of things. All right? That's one kind of project, and that had a \$500,000 threshold. And in the original bill they asked to be able to move that to \$1 million. And in the amendment we're saying, no, we leave it at \$500,000. The other kind of project is a new capital construction project that was at \$500,000, and they're asking to move it to \$2 million. And in the committee amendment we agreed to that. [LB440]

SENATOR FULTON: Okay. And was that...so there are actually two sections within AM1233, which both were envisioned in the committee amendment. [LB440]

SENATOR ADAMS: Right. [LB440]

SENATOR FULTON: Okay. Thank you, Senator Adams. This...I don't know that this is something to go bananas about. But it's...it just...it is indicative that the process moves pretty quickly. We've got to be on our feet thinking. I'm going to have to consume this a little bit but I don't have anything necessarily against the amendment. Okay, thank you, Mr. President. [LB440]

SPEAKER FLOOD: Thank you, Senator Fulton. Senator Pirsch, you are recognized. Senator Pirsch waives his opportunity. Senator Fischer, you are recognized. [LB440]

SENATOR FISCHER: Thank you, Mr. President and members. Would Senator Adams yield to questions? [LB440]

SPEAKER FLOOD: Senator Adams, would you yield to a question from Senator Fischer? [LB440]

SENATOR ADAMS: Yes. [LB440]

SENATOR FISCHER: Thank you. I notice on the committee statement on LB103, Senator Adams, that the Coordinating Commission was against the bill. Could you tell



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me why? [LB440 LB103]

SENATOR ADAMS: Originally, they were concerned about the threshold. And particularly because we have three levels of institutions--community college, state college and, you know, they felt that one threshold might be good for one versus another. And we wrestled with that for quite a long time, all entities. And that was a good share of their opposition, what's most fitting. A threshold to a community college may not be the same as a threshold to a university. [LB440]

SENATOR FISCHER: Are you talking about Section 1 of the bill, on the threshold...as the bill was originally written from \$500,000 to \$1 million. Or are you talking in Section 2 of the bill with the thresholds that would increase to \$2 million? [LB440]

SENATOR ADAMS: Originally in the bill as introduced, the Coordinating Commission had concerns about both. But in the amendment we're leaving Section 1 alone. [LB440]

SENATOR FISCHER: Were they in the discussions and are they all right with this bill now then? [LB440]

SENATOR ADAMS: Yes, yes. [LB440]

SENATOR FISCHER: Thank you, Senator Adams. The Coordinating Commission was formed to provide some oversight so that we wouldn't see duplication in our postsecondary educational institutions. And so I am happy to hear that you worked with them on this and they are fine with the amendment as it is now. Thank you, Senator Adams. [LB440]

SPEAKER FLOOD: Thank you, Senator Fischer. Senator Dierks, you are recognized. [LB440]

SENATOR DIERKS: Thank you, Mr. Speaker and members of the Legislature. I'd like to have a word with Senator Adams, please. [LB440]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Dierks? [LB440]

SENATOR ADAMS: Yes. [LB440]

SENATOR DIERKS: Senator Adams, the Commission on Postsecondary Education was established at one point, I think, when I was on the Education Committee a number of years ago. And I always thought that was an excellent move to provide some governance. You introduced this legislation to the committee? [LB440]

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SENATOR ADAMS: I did, yes. [LB440]

SENATOR DIERKS: And did you have some particular group in mind when you did it? Were you doing this for the commission or for the university or... [LB440]

SENATOR ADAMS: For the university and then very quickly thereafter the state colleges, obviously, and the community colleges were involved because these same thresholds apply to them. [LB440]

SENATOR DIERKS: And did the commission go along with this originally or did they have to have some... [LB440]

SENATOR ADAMS: Originally, as I was indicating to Senator Fischer, originally they did not. They had some concerns about one blanket threshold for three different levels of institutions. And hence, we left Section 1 alone and they agreed with us on Section 2. [LB440]

SENATOR DIERKS: If you take into consideration inflation, probably the \$500,000 and to go to \$2 million isn't too far off as far as inflationary factors are concerned... [LB440]

SENATOR ADAMS: Probably not. [LB440]

SENATOR DIERKS: ...over those 20 years or whatever. So thank you, Senator Adams, and thank you, Mr. Speaker. [LB440]

SPEAKER FLOOD: Thank you, Senator Dierks. Senator Louden, you are recognized. [LB440]

SENATOR LOUDEN: Thank you, Mr. President, members of the body. I was wondering if Senator Adams would yield for questions, please. [LB440]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Louden? [LB440]

SENATOR ADAMS: Yes, I will, yes. [LB440]

SENATOR LOUDEN: With the...with this bill then here a few years ago we gave the authority to the university and some of them to raise the threshold, what they could...contracts they could award without going into taking bids on them. Now does this in anyway affect any of that? [LB440]

SENATOR ADAMS: No. [LB440]

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SENATOR LOUDEN: Do they still have to take bids or... [LB440]

SENATOR ADAMS: No, they still have to bid. This just has to do with at what level does the Coordinating Commission have to get involved to review the plans. [LB440]

SENATOR LOUDEN: Okay. And what does the Coordinating Commission do then when they get involved? Because I mean if some of these community colleges want to go out and spend a couple million bucks and do that on a very regular basis, that could be quite a lot of stuff being built. [LB440]

SENATOR ADAMS: It could, but we're talking enough money here that these projects are spread out. And the Coordinating Commission is going to get involved and they're going to review all kinds of things from storage space to duplication of services to the necessity of the building, a variety of different things if our tax dollars are involved in the construction. [LB440]

SENATOR LOUDEN: And that's the only time they're involved in any of that, is if there's appropriations from the General Fund or something like that? [LB440]

SENATOR ADAMS: That's correct, that's right. [LB440]

SENATOR LOUDEN: If they're building that stuff with foundation money or something, doesn't have any...the Coordinating Commission doesn't get involved? [LB440]

SENATOR ADAMS: No. [LB440]

SENATOR LOUDEN: Okay. And what I'm wondering is if, you know, if they happen to be building some of these structures, you know, how long will they be coming around looking for 309 money, you know, for something if the Coordination Commission had any authority on...you mentioned necessity. And that would be my concern, you know. [LB440]

SENATOR ADAMS: I don't know how to respond to that. [LB440]

SENATOR LOUDEN: Okay. Thank you, Mr. President. And thank you, Senator Adams. [LB440]

SPEAKER FLOOD: Thank you, Senator. Senator Hadley, you're recognized. [LB440]

SENATOR HADLEY: Mr. President, members of the body, in a former life I did work with the Coordinating Commission in trying to get capital projects through, so I understand the system. You remember earlier in this session we...with the public power districts we talked about raising the limits where they did not have to go out and get

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competitive bids on purchasing of some equipment. And the same reasons that would be valid there are valid here. It takes a lot of time and effort to put together the package to take to the Coordinating Commission to do it. If we want to save time and effort and money for the colleges, universities, community colleges, I think raising the limit to \$2 million and the rest of it is appropriate. I find it ironic that we passed a bill, a budget bill, I don't know, last week, last month, last year, I lose track of time now, but I believe there was \$500 million in it for the University of Nebraska system. And we're sitting and arguing whether or not it should be \$1 million or \$2 million at what they have to take a project to a Coordinating Commission and when we give them a half a billion dollars and say, go spend it. So I stand in favor of AM1233 and LB440. Thank you, Mr. President. [LB440]

SPEAKER FLOOD: Thank you, Senator Hadley. Senator Wightman, you're recognized. [LB440]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. If Senator Adams would yield to one question. [LB440]

SPEAKER FLOOD: Senator Adams, will you yield? [LB440]

SENATOR ADAMS: Yes, I will. [LB440]

SENATOR WIGHTMAN: Did you say when this amount was set, Senator Adams, at the \$500,000 threshold? [LB440]

SENATOR ADAMS: I did not. Let me review... [LB440]

SENATOR WIGHTMAN: Now my own staff, they didn't find an answer. But it looked like maybe it was last amended in 1991. Does that sound like... [LB440]

SENATOR ADAMS: I think it's been more current than that... [LB440]

SENATOR WIGHTMAN: Okay. [LB440]

SENATOR ADAMS: ...when those thresholds... [LB440]

SENATOR WIGHTMAN: I'm always concerned over these things as to whether that is in line with the rate of inflation. But it sounds like it probably is not very far off. So thank you, Senator Adams. I do intend to support the AM1233. Thank you. [LB440]

SPEAKER FLOOD: Thank you, Senator Wightman. Senator Council, you are recognized. [LB440]

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SENATOR COUNCIL: Thank you, Mr. President. Very briefly, I just want to respond to a very valid point that Senator Friend raised in his comments and perhaps need to explain. And he made the reference to dropping the ball. And that's in fact what I am guilty of. I was approached about the amendment of AM1233 into LB440 before it came to Select File and indicated my willingness to do so, had the amendment prepared and just forgot to submit it during the debate on Select File. And when I remembered that I had neglected to do that, get the amendment prepared, and I get the agenda and it's already on Final Reading. And so the only...I exercised the only option I had available to me to carry out the commitment that I had made with regard to allowing the amendment of LB440 with this bill. I believe it's a good piece of legislation. Again, out of an abundance of caution was the reason I moved to suspend the rules. It clearly falls under the postsecondary section, chapter of our statutes but they are not exactly the same issue. And so it was out of respect for this institution and respect for its rules that I moved to suspend the rules with regard to germaneness to allow this bill to be debated. And I do hope that AM1233 is advanced. [LB440]

SPEAKER FLOOD: Thank you, Senator Council. Senator Lautenbaugh, you're recognized. [LB440]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I wonder if Senator Adams would yield to a question. [LB440]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Lautenbaugh? [LB440]

SENATOR ADAMS: Yes. [LB440]

SENATOR LAUTENBAUGH: Senator Adams, these bills came out of Education Committee, did they not? [LB440]

SENATOR ADAMS: They did. [LB440]

SENATOR LAUTENBAUGH: And I don't mean to be pejorative, I don't want to. I'm calling this a maneuver today, but I don't mean that in a negative sense. Was your committee counsel involved any way in setting this up this afternoon? [LB440]

SENATOR ADAMS: I don't believe so. [LB440]

SENATOR LAUTENBAUGH: Did you consult with your committee counsel, as you recall, on any of this? [LB440]

SENATOR ADAMS: No. [LB440]

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SENATOR LAUTENBAUGH: If your committee counsel had had concerns about the propriety of this would you have shared that with Senator Council? [LB440]

SENATOR ADAMS: Absolutely. [LB440]

SENATOR LAUTENBAUGH: And I think that's a good practice. And I would hate to think that when someone is bringing an amendment on a bill that anyone might have committee counsel not share information with the senator bringing the amendment and keep that information to himself to use as ammunition against the amendment perhaps the following day. Because if I ever thought a committee Chairman were using the committee counsel for his own purposes and keeping information and not really trying to work out differences in an amendment and work out possible legal issues in an amendment and, instead, trying to lie in wait, I'd be very upset and I'd probably stand up at the microphone on some unrelated bill and tip my hand and say if this is happening and if there are legal concerns about an amendment I want to know about them, especially if it's my amendment. And I'd like to know before we debate the amendment tomorrow late in the day. So if anyone has any legal issues with anything I might be up to or anything anyone might be up to or you know your legal counsel does, as we all work in the spirit of openness, I would urge you to have your legal counsel relay those concerns, if you're a committee Chairman, relay those concerns to the affected senator so that they can be dealt with, because that keeps things going smoothly. Or we could be here a long, long, long time working out those issues at the microphone and a long, long, long time on everything that comes thereafter on the bill. So I don't think anyone wants that. And, Senator Adams, I thank you for your practice. [LB440]

SPEAKER FLOOD: Thank you, Senator Lautenbaugh. Senator Pirsch, you are recognized. [LB440]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Adams might yield to a question or two. [LB440]

SPEAKER FLOOD: Senator Adams, will you yield to a question from Senator Pirsch? [LB440]

SENATOR ADAMS: Yes, I will. [LB440]

SENATOR PIRSCH: Okay. And I apologize. You know, I've been listening to the conversation as much as possible. Dealing with minimal capital expenditures, this is a topic that admittedly is divorced from the germaneness of the underlying Council bill, right? This has...there is no relevancy to the underlying bill. We're onto a new topic, correct, with this amendment? [LB440]

SENATOR ADAMS: Well, other than the connection to higher education, if that's what

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you're referring to. [LB440]

SENATOR PIRSCH: Sure, very good. Okay. I'm just trying to get kind of a base understanding then. We are, with respect to capital expenditures, and this would affect what type of educational structures then or building expenditures? [LB440]

SENATOR ADAMS: Buildings either on a community college, state college or the university system. [LB440]

SENATOR PIRSCH: Okay. And the \$500,000 threshold level was set in 1991. The idea is that update it or, you know, in terms of... [LB440]

SENATOR ADAMS: Actually, I think, as I indicated to Senator Wightman, it has been since 1991 that it was raised up to \$500,000. [LB440]

SENATOR PIRSCH: Okay. [LB440]

SENATOR ADAMS: But now we are again coming back and raising it again, in effect to keep up with inflationary costs. [LB440]

SENATOR PIRSCH: Sure. And so now it would be set at \$2 million. And typically, what is the underlying rationale by which the, if you know, why the language was even included that above that threshold level you have to get approval from the Coordinating Commission? Of what use is that information to a Coordinating Commission? [LB440]

SENATOR ADAMS: To the Coordinating Commission, they're going to look at a lot of different things. They're going to look at classroom size. They're going to look at the necessity of the building in terms of duplication from one campus to another or within an existing campus. They're going to look at a host of different things that are related to higher education and the scope of what we ought to be doing and duplication of service, that kind of thing. [LB440]

SENATOR PIRSCH: Is the thought then that they are just an extra set of eyes, a reviewing factor to make sure that capital expenditures, when they're made, and we're talking about buildings primarily, is that what it is...? [LB440]

SENATOR ADAMS: Yes. [LB440]

SENATOR PIRSCH: ...are done with thought and with an underlying need to those...the need for those buildings before you do that. And is that...is it a certain check then on whoever is in charge of doing the building? [LB440]

SENATOR ADAMS: That's a good way to describe it. It is a check. [LB440]

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SENATOR PIRSCH: Okay. And, I guess, in your opinion at that level is...how much, I guess, I'm trying to get a feel for what typical, anytime a...you know, how many projects are undergone by these regulated type of entities then that would exceed that threshold level. [LB440]

SENATOR ADAMS: You know, I can't give you a specific number, Senator Pirsch, I apologize. [LB440]

SENATOR PIRSCH: The idea to raise it is just you don't want de minimis type of capital expenditures. You don't need to go to that level. It's mostly there to review significant new capital expenditures. Correct? [LB440]

SENATOR ADAMS: Yes, yes. [LB440]

SENATOR PIRSCH: Do you think that that threshold level then will fairly, I guess, fairly...is fairly placed so that you are going to capture those types of activities, that you should have an extra set of reviewing eyes and not... [LB440]

SPEAKER FLOOD: One minute. [LB440]

SENATOR PIRSCH: ...and not unduly burden those type of activities that are very minimal in their scope? [LB440]

SENATOR ADAMS: A simple answer to your question, yes. Based on what the colleges are telling us and what the Coordinating Commission is telling us, this threshold will work. [LB440]

SENATOR PIRSCH: Okay. And is this kind of a similar, if you know, similar type of threshold level that other states utilize? Do you know? [LB440]

SENATOR ADAMS: That I don't know. [LB440]

SENATOR PIRSCH: Okay. I appreciate your explanation on that. And I would yield the balance of my time...how much time do I have, Senator? [LB440]

SPEAKER FLOOD: Senator, 33 seconds. [LB440]

SENATOR PIRSCH: Okay. I would just end then. Thank you. [LB440]

SPEAKER FLOOD: Thank you, Senator Pirsch. Senator Harms, you are recognized. [LB440]



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SENATOR HARMS: Thank you, Mr. President, colleagues. I rise in support of this amendment, AM1233, as well as the underlying bill, LB440. Senator Pirsch, in regard to a couple of your questions in regard to the Coordinating Commission, by law they are responsible for approving the curriculum that the colleges have, new programs that you have to add, elimination of programs, and capital construction. And the purpose for capital construction simply is to make sure that there is a need for the facilities, to make sure that they have the right financing for the facilities. And by increasing the threshold here, you know, even at \$1 million or \$2 million, it doesn't go very far anymore. You don't really get a lot in that sometimes. And so to be able to do that just for...they also have to approve, I might say, construction...remodeling at a certain point. So they are pretty important to the overall system of higher education, even though I have to say that some of my previous colleagues would not particularly care about it. They'd rather have the freedom to do it. This does coordinating it, it's making sure that our money is being spent wisely and there's a need for it. And I think they play a very important role. Thank you, Mr. President. [LB440]

SPEAKER FLOOD: Thank you, Senator Harms. Senator Pirsch, you're recognized. [LB440]

SENATOR PIRSCH: I wonder if Senator Harms might yield to just two quick questions then, in light of his expertise. [LB440]

SPEAKER FLOOD: Senator Harms, will you yield to a question from Senator Pirsch? [LB440]

SENATOR HARMS: Yes, I would. [LB440]

SENATOR PIRSCH: You know, obviously, this review by the Coordinating Commission was set up by a prior Legislature. And I'm just wondering, based on your experience and knowledge, why would...what would be the enticement or incentive for a college, one of the regulated entities to engage in capital expenditures for, say, you know, for a classroom if they didn't have a natural need? I mean why was it, to begin with, regulated or what is the incentive for a college? Is it tied to some sort of additional funding by a formula that the state provides needs or is that...why is there that regulation? Why do we have this extra set of eyes? [LB440]

SENATOR HARMS: Well, first of all, I don't know if you remember Senator Jerome Warner. He was the individual who, I think, put together the Coordinating Commission. He felt like there should be an umbrella organization over higher education so that we could coordinate it and control it. That's what this is about. It's about control. It's about not overspending. It's about making sure that you're spending money wisely and that you're not building buildings that you can't afford to maintain or, for example, looking at a resident hall. I mean, do you have enough students? Have you projected right? Do

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you have enough cash flow? Should you be building that appropriately? And what about the design build and all those kinds of issues that come up? You need somebody to coordinate that and that's what that is all about, so that you have reasonable spending and you make sure that you are targeted right. Because at the end, if you can't pay for it, then it's a problem for the state and it's a problem locally for the community colleges. [LB440]

SENATOR PIRSCH: Okay. But there's no...it's not tied to any aid formula--the more capital expenditures you have, the more aid that you get. So it would...I mean, you would expect there to be a...no behind-the-scenes enticement for these community colleges, etcetera, to not make the right decisions. It's just sometimes they overestimate their need, correct? [LB440]

SENATOR HARMS: Well, that's correct. And it's not tied to any funding formula. [LB440]

SENATOR PIRSCH: Okay. [LB440]

SENATOR HARMS: It's all about just making sure that we spend it wisely and it's appropriate and there is a need for it. And you have to go through quite a process. I'll tell you what, when you get done with the commission, they've done a pretty good job on you. They've got all the information they need and they can make wise decisions and recommendations. So I think it's good. And I think in some cases they've even stopped construction early in our times... [LB440]

SENATOR PIRSCH: Yeah. [LB440]

SENATOR HARMS: ...and saying it wasn't wise, you can't afford it, and they were correct. [LB440]

SENATOR PIRSCH: Great. Well, I appreciate the answers and the expertise both of Senator Adams and Senator Harms. And Senator Adams, as the expert, you know, has posited that this is, in light of the time that's passed and in light of inflation, a reasonable threshold level to move it to and so I will support it. Thank you. [LB440]

SPEAKER FLOOD: Thank you, Senator Pirsch. Senator Council, there are no other lights on. You are recognized to close. Senator Council waives her opportunity to close. The question before the body is, shall AM1233 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB440]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB440]

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SPEAKER FLOOD: AM1233 is adopted. Mr. Clerk. [LB440]

CLERK: I have nothing further, Mr. President. [LB440]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB440]

SENATOR NORDQUIST: Mr. President, I move LB440 to E&R for engrossing. [LB440]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB440 is advanced. Mr. Clerk, we now proceed to LB35 under Select File, 2009 committee priority bill. [LB440 LB35]

CLERK: Mr. President, LB35. Senator Nordquist, Enrollment and Review amendments first of all. (ER8067, Legislative Journal page 1051.) [LB35]

SPEAKER FLOOD: Senator Nordquist for a motion. [LB35]

SENATOR NORDQUIST: Mr. President, I move the E&R amendments to LB35. [LB35]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB35]

CLERK: Mr. President, Senator Pankonin, I have a note, Senator, you have AM934 pending, but I have a note you want to withdraw. [LB35]

SENATOR PANKONIN: Yes. [LB35]

SPEAKER FLOOD: Without objection, so ordered. Mr. Clerk. [LB35]

CLERK: Mr. President, the next amendment I have to the bill, Senator Ashford, AM1095. (Legislative Journal page 1372.) [LB35]

SPEAKER FLOOD: Senator Ashford, you're recognized to open on AM1095. [LB35]

SENATOR ASHFORD: What? No. Yes, thank you, Mr. Speaker. AM1095 is...would reinstate the Law Enforcement Improvement Fund for the Grand Island Law Enforcement Training Center. This is an extremely important measure. This was brought to me by Senator Heidemann, and it's something I think we really need to do. What it does is it does increase a fee. It's from the criminal docket fee. It goes to pay...well, it would be a transfer of an additional \$290,000 of cash funds to go to this center. And those of you, most of you, I'm sure, know about this center, but it trains all of our law enforcement people throughout the state with the exception of Omaha,

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Lincoln, and I'm not sure of the third city, but I think at least everybody except for the three cities including Omaha and Lincoln, and it's basically all their training. Their basic training occurs at this facility. There is some history here. This \$1 in criminal docket fee had been going to the Law Enforcement Center in Grand Island, but it was substituted a few years ago by tuition money. And Senator Heidemann is going to fill in some of the gaps here, but the tuition was not adequate to meet the budgetary responsibilities of the center. If we don't take this docket fee and put it back to the Law Enforcement Center, it will require a General Fund appropriation probably next year but certainly in the next biennium. And I'll leave it to Senator Heidemann who's certainly well versed in explaining the budget to maybe explain some of the details of this. To be honest with you, I should have put this in. I should have put this in the LB35 before this. It is a measure that definitely needs attention. There is nothing more critical right now, certainly with today's discussion, to make certain that our law enforcement people across the state are adequately trained and that the money is there to do it. With that, I would urge the adoption of AM1095. [LB35]

SENATOR STUTHMAN PRESIDING []

SENATOR STUTHMAN: Thank you, Senator Ashford, on the opening of AM1095. Senator Pirsch, you're recognized. [LB35]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Ashford would yield to a question or two. [LB35]

SENATOR STUTHMAN: Senator Ashford, would you yield to a question or two from Senator Pirsch? [LB35]

SENATOR ASHFORD: Yeah. [LB35]

SENATOR PIRSCH: Would this technically flow into this...it's an increase in the court costs of all criminal and civil cases. Is that right? [LB35]

SENATOR ASHFORD: Criminal docket fee. [LB35]

SENATOR PIRSCH: Criminal docket fee, okay, including misdemeanors then. And that \$1, is that correct? [LB35]

SENATOR ASHFORD: Yes. There is \$1 now and so it would be an increase of another \$1. [LB35]

SENATOR PIRSCH: An additional dollar so \$2 overall. And that would flow into Law Enforcement Improvement Fund. Is that the... [LB35]

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SENATOR ASHFORD: It's the Cash Fund that supports the Law Enforcement Training Center in Grand Island. [LB35]

SENATOR PIRSCH: In Grand Island, okay. Well, obviously it is a very important center and I do support the concept as have previously been mentioned of internalizing as much as we can the costs of crime to criminals themselves. This would clearly meet within that bounds. This...well, having said that, I thank you. [LB35]

SENATOR STUTHMAN: Thank you, Senator Pirsch and Senator Ashford. Senator Heidemann, you are recognized. [LB35]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. I do support AM1095 and this issue actually did come up in Appropriations. The LEIF fund was funded with a fee of \$2, as Senator Ashford has stated, and it went away in January 2007. When this issue come up before the Appropriations, we decided to pursue this. And if we could get this fee reinstated back to where it was in 2007 to \$2, we will actually save the state's budget \$290,000 per year. And in the fiscal times that we see right now and with our revenues going down, we decided this was an issue that was important enough for us to pursue. I definitely appreciate the fact that Senator Ashford is carrying this for us. And we, in the budget that we have before the Legislature right now, we actually did not fund the Law Enforcement Training Center in the second year to the point where they need to be. If this does not pass, we will, as Appropriations Committee and a body, have to go back and put approximately \$290,000 back in their budget to make them whole. If we adopt this, we won't have to do that. And if we adopt this also, in the out-years we will show a savings of \$290,000. I do want to thank Senator Ashford one more time, and I urge the adoption of AM1095 to LB35. [LB35]

SENATOR STUTHMAN: Thank you, Senator Heidemann. Seeing no other lights, Senator Ashford, you are welcome to close on AM1095. [LB35]

SENATOR ASHFORD: Thank you, Mr. President. And very briefly for Senator Hadley's benefit, this bill has no benefit to Omaha, I'm sorry to say. But at any event, thank you, Mr. President, and thank the body, and I would urge the adoption of AM1095. [LB35]

SENATOR STUTHMAN: Thank you, Senator Ashford. You have heard the closing on AM1095 to LB35. All those in favor vote aye; all those against vote nay. Have all voted who care to? Mr. Clerk, please record. [LB35]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Ashford's amendment. [LB35]

SENATOR STUTHMAN: AM1095 is adopted. [LB35]

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CLERK: Senator Ashford would move to amend with AM1287. (Legislative Journal page 1372.) [LB35]

SENATOR STUTHMAN: Senator Ashford, you are...would you give us the opening on AM1287. [LB35]

SENATOR ASHFORD: Yes, thank you, Mr. President and members. AM1287 is a cleanup amendment to carry out the intent of LB344 which we did attach to LB35 on General File. LB344 would transfer the administration of the Civil Legal Services Program, which has been in statute for some time, from the State Court Administrator to the Commission of Public Advocacy. Again, we did this on General File. This is really merely a technical amendment. It's not substantive. The Court Administrator asked us to make this change because it is the public advocacy agency that does make the grants. And this would make that...that we have already made that change on General File. The amendment would move up the operative date for the transfer from January 2010 to three months after adjournment, which would enable this change to take effect in this year. With that, I would urge the adoption of the amendment. [LB35 LB344]

SENATOR STUTHMAN: Thank you, Senator Ashford. Anyone wishing to speak on AM1287? Seeing no lights, Senator Ashford, you are welcome to close. [LB35]

SENATOR ASHFORD: I'd waive. [LB35]

SENATOR STUTHMAN: Senator Ashford waives his closing on AM1287. The question is for the body, shall AM1287 to LB35 be adopted? All those in favor vote aye; all those against vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB35]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Ashford's amendment. [LB35]

SENATOR STUTHMAN: Senator Ashford's amendment advances. [LB35]

CLERK: I have nothing further on the bill, Mr. President. [LB35]

SENATOR STUTHMAN: Senator Nordquist for a motion. [LB35]

SENATOR NORDQUIST: Mr. President, I move LB35 to E&R for engrossing. [LB35]

SENATOR STUTHMAN: All those in favor say aye. All those opposed say nay. It is advanced. Mr. Clerk. [LB35]

CLERK: Mr. President, LB35A, no E&R. Senator Ashford would move to amend with

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AM1087. (Legislative Journal page 1128.) [LB35A]

SENATOR STUTHMAN: Senator Ashford, you are recognized to open on AM1087. [LB35A]

SENATOR ASHFORD: Thank you, Mr. President and members. The AM1087 gives spending authority to the Supreme Court, to the court system to spend the \$800,000 in cash funds that we dealt with on General File on this bill for the automation primarily for the Douglas County District and Separate Juvenile Court automation system, the JUSTICE system. And as you may recall, this automation has been completed throughout the state in all the courts of the state with the exception of Douglas County District Court. And so this cash fund...the granting the authority to spend this additional \$2 of court fee will finish that job. It will do some other...complete some other tasks in the court information system throughout the state. But the primary use of the money is to complete the JUSTICE system in Douglas County. The amendment would also appropriate, again, giving spending authority from the civil...\$290,000 from the Civil Legal Services Fund for each of the next two fiscal years to the Commission on Public Advocacy for the administration of the Civil Legal Services Program, the program we just talked about. Again, this is granting the authority, the spending authority to spend the money that they would have the authority to spend under the amendment to LB35 that we just passed. [LB35 LB35A]

SENATOR STUTHMAN: Thank you, Senator Ashford. You have heard the opening of AM1087 to LB35A. Is there...Senator Pirsch, you are recognized. [LB35A]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if Senator Ashford could just answer a quick question or two. [LB35A]

SENATOR STUTHMAN: Senator Ashford, would you be willing to answer a quick question or two from Senator Pirsch? [LB35A]

SENATOR ASHFORD: Yes, Mr. President. [LB35A]

SENATOR PIRSCH: Thank you. This ties into the bill that was previously passed here... [LB35A]

SENATOR ASHFORD: Correct. [LB35A]

SENATOR PIRSCH: ...that deals with the Law Enforcement Training Center in Grand Island and... [LB35A]

SENATOR ASHFORD: Oh. [LB35A]

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SENATOR PIRSCH: Is that what you mean? [LB35A]

SENATOR ASHFORD: No, I'm sorry. No, it does not. This ties in...that was a...when we passed off General File we passed LB35, we dealt with the \$2 increase in the civil court fees to pay to complete the Douglas County JUSTICE system automation and do some other automation. [LB35 LB35A]

SENATOR PIRSCH: The technology fund, as it's called? Okay. [LB35A]

SENATOR ASHFORD: Technology upgrades and pay fees. [LB35A]

SENATOR PIRSCH: Okay. So this pertains to that \$2 upgrade fee, right? [LB35A]

SENATOR ASHFORD: Correct. [LB35A]

SENATOR PIRSCH: And then the only other new cost to the surcharges was \$1 for the judges retirement, right? [LB35A]

SENATOR ASHFORD: Correct. [LB35A]

SENATOR PIRSCH: Okay. So this is the \$2 aspect for the technology. Thanks for explaining that. This is the \$2 provision. And then this just implements this in law or what does this amendment then... [LB35A]

SENATOR ASHFORD: What this does is it gives the court the authority to spend the money to complete the project. [LB35A]

SENATOR PIRSCH: Oh, I see. And that's all it's doing then. [LB35A]

SENATOR ASHFORD: That's it. [LB35A]

SENATOR PIRSCH: Okay. Thank you, Mr. President. I yield the balance of my time. [LB35A]

SENATOR STUTHMAN: Thank you, Senator Pirsch and Senator Ashford. Anyone else wishing to speak? Seeing none, Senator Ashford, you are welcome to close on AM1087. [LB35A]

SENATOR ASHFORD: No, nothing further, Mr. President. [LB35A]

SENATOR STUTHMAN: You have heard the closing on AM1087. The question before the body is, shall AM1087 be amended into LB35A? All those in favor vote aye; all those against vote nay. Have all those voted who care to? Please record. [LB35A]



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CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Ashford's amendment. [LB35A]

SENATOR STUTHMAN: Senator Ashford's amendment is adopted. [LB35A]

CLERK: Senator Ashford, I now have AM1101. (Legislative Journal page 1373.) [LB35A]

SENATOR STUTHMAN: Senator Ashford, you are recognized to open on AM1101. [LB35A]

SENATOR ASHFORD: Thank you, Mr. President, and this would be, I think, the final amendment. Is that right, Mr. Clerk? Is this the last amendment? [LB35A]

CLERK: It is, Senator. [LB35A]

SENATOR ASHFORD: Thank you. Just so I got my frame of reference here. This is the...this amendment is the spending authority for the \$1 criminal docket fee and other criminal fees that would be allocated to the Law Enforcement Training Center in Grand Island. And this is spending authority to expend those funds. [LB35A]

SENATOR STUTHMAN: Thank you, Senator Ashford, for your opening. Anyone wishing to speak? Seeing none, Senator Ashford, you are recognized to close. Senator Ashford waives closing. The question before the body is, shall AM1101 be advanced with LB35A? All those in favor vote aye; all those opposed vote nay. Have all voted who wanted to vote, voted? Mr. Clerk, please record. [LB35A]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Ashford's amendment. [LB35A]

SENATOR STUTHMAN: AM1101 is advanced. [LB35A]

CLERK: I have nothing further on the bill, Mr. President. [LB35A]

SENATOR STUTHMAN: Thank you, Mr. Clerk. Senator Nordquist for a motion. [LB35A]

SENATOR NORDQUIST: Mr. President, I move LB35A to E&R for engrossing. [LB35A]

SENATOR STUTHMAN: You have heard the motion. All those in favor say aye. All opposed say nay. It is advanced. Items for the record, Mr. Clerk. [LB35A]

CLERK: Mr. President, one item. Senator Pirsch would like to print an amendment to

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LB671. (Legislative Journal pages 1439-1440.) [LB671]

A priority motion: Senator Lautenbaugh would move to adjourn the body until Wednesday morning, May 13, at 9:00 a.m. []

SENATOR STUTHMAN: You've heard the priority motion. All those in favor of adjourning until Wednesday morning at 9:00 a.m. say aye. All opposed say nay. We are adjourned. Have a nice evening. []