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Transcriber's Office

Judiciary Committee
February 02, 2012

[LB816 LB817 LB951 LB1009 LB1119]

The Committee on Judiciary met at 1:30 p.m. on Thursday, February 2, 2012, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1119, LB816, LB817, LB951, and LB1009. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Colby Coash; Brenda Council; Burke Harr; Tyson Larson; Scott Lautenbaugh; and Amanda McGill. Senators absent: None.

SENATOR LATHROP: Welcome to the Judiciary Committee. Do we have Senator Karpisek?

OLIVER VanDERVOORT: Yes.

SENATOR LATHROP: Okay. For those of you that haven't testified before, let me cover a couple of the ground rules. First of all, my name is Steve Lathrop. I am the Vice Chair of the committee. The Chair is introducing a bill in another committee, that's Senator Ashford. Basically the way we do it here, no cell phones ringing. So if you've got a phone, make sure it's on vibrate or turn it off. The process is pretty straightforward. We're going to take the bills in the order listed on the agenda out front. That means we'll be taking up Senator Karpisek's LB1119 first. Generally the process is the senator introducing the bill will speak. That senator is not subject to a time constraint other than reason. (Laughter) Then we'll take the proponents. If you wish to testify, you need to fill out a sheet, then you can hand it to the page. We do that so that we get a good record, we know your name and all that stuff. Notwithstanding that, when you do come up, we'd like you to give us your name, spell your name so that we have a good, clean record. We are also going to put you on the timer. And that's a custom we have in this committee just so that we can get through all the bills. And we have five bills on the agenda today. That means that each person will get three minutes whether you're a proponent, an opponent of a bill, or here in a neutral capacity. You'll start out with two minutes on the green light, one minute on the yellow, and then it turns to red. If it turns to red on you, please don't make me interrupt you, and I will if I have to, because in order to keep things moving, we have to observe that light. Okay? It's not meant to be rude. When we testify on the floor or when we speak on the floor we're on a timer, too, and they just plain turn our mike off. So that is the process and, yeah, I guess that's it. So we'll start with Senator Karpisek. Welcome, Senator Karpisek.

SENATOR KARPISEK: Thank you, Senator Lathrop, members of the Judiciary Committee. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District. I will say when I introduced this bill, I did not intend to--no pun intended--light a fuse on this. I have had concern over flying lanterns for a while. I've had people ask me about them, concerned about them, so I introduced a bill. Not meaning to step on anyone's toes, I appreciate fireworks as much as anyone.

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They seem dangerous to me. I'm sure we will hear why they are not and why they are. Flying lantern-type devices in the bill are prohibited for sale, possession, and use in this state. What we're talking about are the little, I've heard them described as sky lanterns, Chinese lanterns that are...you light a fire, it makes a small hot air balloon. It goes up in there and it floats away. Now I've heard a lot of people say, well, the reason they don't come down hot is because while they're on fire they're up in the air, warm air rises. And I understand that. However, I've seen trees, buildings, wires, other things that these things have caught in, and I think that they do propose a risk, especially in my part of the country where wheat fields are very dry around the Fourth of July. Now I know that they're used for other things and they are sold year-round because they do not fit under the firework statute. They are not explosive so they do not fall under that category. The Fire Marshal's Office has not had any dealings with them because they do not fall under that statute. It isn't that they haven't had calls on them because they have, but it doesn't fall under their area to work on. A real quick look on the Internet: Hanover, Massachusetts, Fire Chief, they are banning them there. Australia, Austria, and most of Germany have banned the sale and use and even part of China where we will probably hear that it is a religious ritual to send these up. I'm not trying to step on anyone's religious freedom. I'm trying to do something to stop what I think, at least in my part of the country, seems to be a very dangerous practice. It's a simple bill. It's a simple piece of equipment. They are very cool. If you've seen them go, they're beautiful. A lot of things are pretty but can be dangerous. I do have supporters behind me that will probably tell you more about why they feel they should not be legal. I'd be glad to take any questions. [LB1119]

SENATOR LATHROP: Very Good. Senator Coash. [LB1119]

SENATOR COASH: Thank you, Senator Ashford (sic). Two questions for you, Senator Karpisek. You mentioned some countries that have banned this. Would we be the only state that's doing so? [LB1119]

SENATOR KARPISEK: We're still doing a quick investigation. I did not find any. [LB1119]

SENATOR COASH: Okay. Then my second question is, you know, we have certain licenses for fireworks operators. You know, there's the general public and then you can have like a pyrotechnic's license. Does this prohibit somebody with that kind of license utilizing them? Obviously they're not going to be part of like a big fireworks show, but does it apply to those individuals also? [LB1119]

SENATOR KARPISEK: Yes, yes. [LB1119]

SENATOR COASH: Okay. Thank you. [LB1119]

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SENATOR LATHROP: Senator Council. [LB1119]

SENATOR COUNCIL: Thank you, Senator Lathrop. And that was precisely my question. And I guess my next question is, would there be the possibility of an exception in those situations? For example, the explosives, I mean if they're characterized as explosive fireworks, only a certain class of license are allowed to do that. Would there...because I know that there are some celebrations where these are utilized if perhaps there could be some special permitting associated... [LB1119]

SENATOR KARPISEK: I would be open to talking about something like that. [LB1119]

SENATOR COUNCIL: Okay. [LB1119]

SENATOR KARPISEK: Maybe a narrow exception. [LB1119]

SENATOR COUNCIL: I thank you, Senator Karpisek. [LB1119]

SENATOR LATHROP: Senator Harr. [LB1119]

SENATOR HARR: Thank you, Senator Lathrop, and thank you, Senator Karpisek, for coming in front of Judiciary. It's a pleasure to see you. [LB1119]

SENATOR KARPISEK: It's always a pleasure. [LB1119]

SENATOR HARR: The pleasure is ours. [LB1119]

SENATOR KARPISEK: Oh, yeah, I'm sure. [LB1119]

SENATOR HARR: Just as you aren't in here a lot so as an FYI, we take foreign laws very seriously whether we look at them or not for precedence. And that's something we're debating right now. So I'm not sure if your argument is very strong on what foreign countries do. But secondly, I have a question. So growing up, my grandfather--we were not wealthy--he had fireworks. What he'd do is take a newspaper and take the four sides like this, put a toothpick, and you light the bottom. And we called it Depression-era fireworks. Lights it and it flies and that's all they could afford. Would that be illegal under this bill? [LB1119]

SENATOR KARPISEK: That's a good question. I guess you're the attorney, you could read the...better than I can, but... [LB1119]

SENATOR HARR: Well, and I have read it and that's why I was... [LB1119]

SENATOR KARPISEK: You know, it may be under this. [LB1119]

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SENATOR HARR: It would appear to. [LB1119]

SENATOR KARPISEK: Heated air trapped in a balloon-type covering. I don't know if that would be a balloon-type covering. [LB1119]

SENATOR HARR: So it's a newspaper balloon type. [LB1119]

SENATOR KARPISEK: That's up for debate, I suppose. [LB1119]

SENATOR HARR: Okay. That's the question. Does it have to be rubber balloon type or can it be paper? [LB1119]

SENATOR KARPISEK: Rubber, they're not made out of rubber. [LB1119]

SENATOR HARR: What are they made of? I don't even know what balloon... [LB1119]

SENATOR KARPISEK: You will hear more behind me on that. [LB1119]

SENATOR HARR: Okay. Well, then I appreciate it. Thank you very much. [LB1119]

SENATOR KARPISEK: Sure. Thank you. [LB1119]

SENATOR LATHROP: I see no other questions. Do you intend to stay to close, Senator? [LB1119]

SENATOR KARPISEK: I will stick around and make my decision then. How's that? [LB1119]

SENATOR LATHROP: Okay. Very good. [LB1119]

SENATOR KARPISEK: Unless in Judiciary if I can. Can I do that? [LB1119]

SENATOR LATHROP: You're welcome to stick around. [LB1119]

SENATOR KARPISEK: Okay. Thank you. (Laugh) [LB1119]

SENATOR LATHROP: We look forward to it. Those who are here to testify in favor may come forward. [LB1119]

JERRY STILMOCK: Good afternoon, Senators. My name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of the Nebraska Fire Chiefs Association and the Nebraska State Volunteer Firefighters Association. Though our organizations

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did not request that Senator Karpisek introduce the bill, nevertheless, remain very interested in it. This past summer there was a large article in the Omaha World-Herald that discussed fire pots, and they were a ceramic pot. I wrote about it in our monthly newspaper article and shared the circumstances that were happening throughout the country, patio, summer life, outdoors, barbecuing, and people were using these ceramic pots. And as they...you ignited them with a gel-type of fluid, and as you use that ceramic pot to have a decorative fire in the summertime, it appeared that the fire went out, and you would refuel it. And when you refueled it, even though to the naked eye it looked like that flame had dissipated, in fact it reignited. In several of these throughout the country, a family was severely burned in Omaha. My point being, the article was posted not certainly because of the article in the newspaper for the firefighters, but the Omaha World-Herald, others posting articles of the significance of this, later to find out that stores quit selling these things. The distributor of the chain had quit supplying them to the various stores. So in that circumstance, consumers complaining, burning, it took care of the situation itself. Here's a situation that Senator Karpisek has brought to you that product safety has not overridden yet. Apparently they're still in use. I haven't seen one. I don't know what the balloon-type material is made of. But yet it comes to mind of the same type of thing just like the nonchildproof lighters that the committee has right now. It's an item intended for safety but used in a manner that turns out to be dangerous. Two of my clients that looked at this bill that are in support of LB1119 decided to come here and to support the effort of Senator Karpisek, because if you look at this item and you say, okay, its intended purpose, it's some type of fun, social, recreational activity. But not knowing the size and the weight distribution and so forth, just a slight variation in breeze, does that put it up on the roof? Does it put on a roof that's made of cedar shingles? Does it drop it down on a dried off plant, you know, tall grasses that are dormant in the fall and becomes a very dangerous item? Last year the Legislature, you all, took items away from the State Fire Marshal so that he wouldn't have to test. And because of that item, items such as this don't go through the Fire Marshal's Office anymore is my understanding. They don't go through the Fire Marshal's Office in terms of testing. For those reasons, we would ask that you support the legislation and advance it to the full floor. [LB1119]

SENATOR LATHROP: Very good. Thanks, Jerry. Senator Harr. [LB1119]

SENATOR HARR: Thank you, Senator Lathrop. And you were here earlier. Did you hear my question to Senator Karpisek? [LB1119]

JERRY STILMOCK: I did. [LB1119]

SENATOR HARR: And what is your opinion on a newspaper? Is that balloon like? [LB1119]

JERRY STILMOCK: If it smells like it, it looks like it, it sounds like it. [LB1119]

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SENATOR HARR: Well, it wouldn't smell like a balloon. [LB1119]

JERRY STILMOCK: Well, if it was burning it probably would. (Laughter) [LB1119]

SENATOR HARR: So that would fall under this statute? [LB1119]

JERRY STILMOCK: My reading of it, yes. [LB1119]

SENATOR HARR: Okay. Thank you. [LB1119]

JERRY STILMOCK: Yes, sir. [LB1119]

SENATOR LATHROP: Okay. Anyone else here in support of Senator Karpisek's LB1119? [LB1119]

ROBERT BRACKLE: My name is Robert Brackle. I'm from Fairbury, Nebraska. I'm a...we have some agricultural lands. We're a farmer. I'm also an old grocery store owner, and I also sell fireworks every year. So I'm actually...a lot of these guys behind me are my friends but for right now anyhow. My concern is, you know, Russ already stated most of the issues I had. If you read through the safety instructions for sky lanterns, basically I'll try and summarize this in the three minutes: Do not launch in wind conditions that make lighting lanterns difficult. Ensure the wind is no stronger than five miles an hour. Launching a lantern in strong winds that is torn or has burn holes may cause premature landing and a fire at the point of grounding. Check the wind direction prior to...you know, make sure there's no buildings or trees around. Do not launch in an area that could cause a fire, such as near trees, crops, you know, bales of hay. Do not launch within five-mile radius of an airport or an airfield. Sky lanterns must not be released within five-mile radius of a farmer's fields or livestock. You keep hearing five miles here. Sky lanterns that are in inappropriate surroundings or weather conditions after they've been damaged may cause fires. Basically if I summarize that, before I launch a lantern I've got to check it for punctures in the tissue material, which is fireproof material; check for wind direction; look for trees at least 100 feet away, depending upon the wind; be sure I stay five miles from airports; make sure you're at least five miles from farm fields and livestock. Give me a community that's going to qualify for that. It's going to be very difficult, isn't it? This is a liability issue. Again, I have a farm field. I talked to my insurance agent. I said, what if something should happen? And granted these are going to extinguish when they come down out of the air because that's why they're dropping, so it shouldn't be an issue. But if something would happen, it would come to the ground hot, and my crops would burn. Do I have insurance? No. I do not have any insurance for fire unless it's lightning. And how do I go back to that three- or four-mile radius and find out who lit it? They don't put their name on it. They're not going to come out and say, oh, I'm sorry, I did it. It's not in a restricted area like it is when you

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light fireworks in your backyard. You know what's going to happen. This you do not know. So I see my yellow light is on so I'm going to have to pick this up. But basically those are my issues--public safety, liability. My liability insurance, I asked my fireworks supplier that I had last year, and I'm not covered for anything that's not pyrotechnic. So, again, I could be liable and get sued. So we need to come up with a solution. You know, whatever it is, we need a solution. And like you said, Walmart could sell these 365 days a year. They're not restricted. Thank you. [LB1119]

SENATOR LATHROP: Do you think you could take a second and describe one of these so everybody knows what we're talking about? [LB1119]

ROBERT BRACKLE: I've got one right behind me back there in my bag. You've never seen one? [LB1119]

SENATOR LATHROP: Well, why don't you bring one up and show us what it is, not to light it but just so that...(laughter) we're not going to light it. [LB1119]

ROBERT BRACKLE: Now, this is one that we...I buy from several suppliers... [LB1119]

SENATOR LATHROP: We're going to have you get back to the mike so we can make a record. [LB1119]

ROBERT BRACKLE: I'm sorry. I buy from several suppliers so this just happens to be one, but I have different companies we buy from. But basically this is a fire-retardant material, and they'll come up here and tell you that too. This one, I think this is a wax in there that they light and it catches on fire and it will heat up. It says you're supposed to hold it for 60 to 90 seconds, which is true. You don't want to prematurely release it because it's going to fall to the ground and burn up. But that's how...this is what they all typically look like. They're beautiful when they go up in the air. [LB1119]

SENATOR LATHROP: I've seen them at the Ralston fireworks and you're right. People...not the proprietors there are doing it but the people that are just standing around waiting are lighting them and they're going off to wherever. They're really...I think they're cool, but whether they're a hazard or not... [LB1119]

ROBERT BRACKLE: I think they are too. I'm not trying to knock them down. It's a great revenue stream for us retailers. They're a good profit margin, so we hate to see it leave. Yes, Senator. [LB1119]

SENATOR LATHROP: Senator Coash. [LB1119]

SENATOR COASH: Thank you, Chairman Lathrop. Do you sell these? [LB1119]

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ROBERT BRACKLE: Yes. [LB1119]

SENATOR COASH: You just said they were so dangerous. [LB1119]

ROBERT BRACKLE: I didn't sell any after I...after we...I didn't realize they were that dangerous. The first year I sold them, sir, you know the first year I sold them was this last summer. And when the people came back, I pulled them off the shelf. I didn't sell them anymore. [LB1119]

SENATOR COASH: Okay. All right. So regardless of what we do with this bill you'll stop selling them. [LB1119]

ROBERT BRACKLE: I'm not going to sell them probably period, because unless I have liability coverage I'd be a fool. [LB1119]

SENATOR COASH: Okay. [LB1119]

ROBERT BRACKLE: I don't want to lose everything I have because somebody sends one of them off and they don't use their head. [LB1119]

SENATOR COASH: Okay. All right. Thank you. [LB1119]

SENATOR LATHROP: Senator Council. [LB1119]

SENATOR COUNCIL: And I appreciate your candor. But what about a permit? I mean there are certain things you can sell to me and there are certain things you can't sell to me. What about a permit for...and then there would be...you'd at least have some comfort level that the person purchasing them knows that you got to hold it for so many...I'm just asking you...I'm not saying that that's something I'm inclined to support, I'm just trying to get your view from...as a retailer of... [LB1119]

ROBERT BRACKLE: I think your permit is a great idea because at least now I know the group of people that lit them off. They could be traced back. It's kind of like having a keg party. If you got your name on the keg, you know who bought it. (Laughter) I'm just...you know, I'm being honest with you. It's very simple. [LB1119]

SENATOR COUNCIL: Thank you. Thank you. [LB1119]

SENATOR LATHROP: I have a question for you. Is it just in dry conditions that you think these are dangerous or if Fourth of July rolls around and on the third it rained like crazy and things are all pretty wet? In other words, is this a situation where we can have the Fire Marshal say it's okay to let these things go or... [LB1119]

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ROBERT BRACKLE: That's a good point. I don't know. I'm not technically smart enough to know what that fuel cell could do. I think a wet environment wouldn't be an issue in my mind, at least for my crops it wouldn't be an issue. [LB1119]

SENATOR LATHROP: Okay. Okay. And I'm not sure how many people would observe that anyway but I just thought I'd ask. Okay. Well, thank you for your testimony. We appreciate it. [LB1119]

ROBERT BRACKLE: Thank you. [LB1119]

SENATOR LATHROP: Anyone else here that's a supporter? Okay. Let's hear from the opponents. [LB1119]

RON HINKLEY: Hello, ladies and gentlemen. My name is Ron Hinkley, H-i-n-k-l-e-y, and I am opposed to LB1119. I have a small sky lantern business located here in Lincoln. My involvement with sky lanterns is in the thousands and dates back about five years. My market is mostly wholesale to vendors in Missouri, North Dakota, Alabama, Iowa, Colorado, Nevada, and Florida, to name a few. With all my sales and experience lighting lanterns, I have not been made aware of any fire damage caused by them. In history, the sky lanterns are said to have been invented by the Chinese and date back to the third century B.C. Lantern festivals are celebrated all over the world in countries such as Bangkok, China, Malaysia, Indonesia, Singapore, Thailand, Taiwan, and Vietnam. One such festival in Taiwan uses the practice of wish lanterns. This is the lantern wishes...this is the writing of wishes on a paper lantern and praying for them to come true as the lantern makes its way to the sky. Many people that...some parts of the lanterns will go to the heavens and their prayers will be received by the gods. The use of quality sky lantern when launched correctly does not descend down to the ground as long as the burner is still on fire. Sky lantern disappears out of sight and into the night sky. Only when the flame in the burner is extinguished does the sky lantern come back to earth. If this bill would pass, the people of Nebraska would lose their freedom to enjoy these beautiful lanterns. Many Asian people will be unable to practice religious ceremonies and festivals that include the use of these lanterns. Anything that has a fire associated with it--the cigarette, barbecue grill, tiki torch, fire pits, a candle--is a potential fire hazard if not used correctly. And I think that's the key here is using these correctly. They come with an instruction sheet and that needs to be followed and not abused. And I think if people are having lantern failures, it's because you are not following the directions, not that they're a firework but when you buy a firework, it gives you instructions on how to use it also. And if you don't use it correctly, that's when we have problems with them. I have an inventory of thousands of these lanterns right now. And, you know, if this bill would go through as it's proposed, I would...you know, I have a potential of a lot of...I have no idea what I'd do with them quite frankly. [LB1119]

SENATOR LATHROP: Okay. Senator Coash. [LB1119]

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SENATOR COASH: Thank you, Chairman Lathrop. You don't manufacture these, you just wholesale them? [LB1119]

RON HINKLEY: No, I don't, sir. [LB1119]

SENATOR COASH: When you open these up, are there age restrictions on this? I mean some products have some type of age restriction. [LB1119]

RON HINKLEY: You know, the thing about these lanterns is that they're not all...the instruction sheets that come with them might...the last gentleman talked about five-mile radius to farm fields and that. If you look at another lantern, it may have a range of...it talks about any close vicinity to. It's anybody's interpretation how close you should be to crops or...and I think he'd mentioned, you know, that if you get on the Internet you see it hitting buildings and tangling fire...telephone wires and so on. But, again, his issue was with farm fields and we really don't have buildings out there and a lot of times don't have trees for them to get caught in. If you see these, the vulnerable time is the first 50 or 100 feet. If you've got a tree next to your building next to you, you run the risk of that getting on its launch running into the building. [LB1119]

SENATOR COASH: All right. These are typically launched at night though. [LB1119]

RON HINKLEY: Not necessarily. [LB1119]

SENATOR COASH: No. [LB1119]

RON HINKLEY: They have some...they even sell them in black, believe it or not, that in the daytime you get a black ball going up in the air. [LB1119]

SENATOR COASH: And I know you're a wholesaler, but do the retailers...you know, there are...are you aware of any age restrictions where a retailer may say, you know what, this is probably something I don't want to let my ten-year-old flame up? [LB1119]

RON HINKLEY: And I think some of the directions we get on here and understand they're printed from the manufacturer in China, but a number of them say no one under the age of 18. [LB1119]

SENATOR COASH: But you're not aware of any restrictions at the sale... [LB1119]

RON HINKLEY: No. [LB1119]

SENATOR COASH: ...as far as age goes? [LB1119]

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RON HINKLEY: Not really. [LB1119]

SENATOR COASH: Okay. Thank you. [LB1119]

SENATOR LATHROP: I see no other questions. Oh, I'm sorry, Senator Harr. [LB1119]

SENATOR HARR: Thank you, Senator Lathrop. And thank you for coming, sir. [LB1119]

RON HINKLEY: Sure. [LB1119]

SENATOR HARR: I guess my question is, it says buying devices are "prohibited from sale, possession, and use" in this state, if we were to amend it to just "use" so that your business still could...it wouldn't be able to operate in Nebraska but it could...you could sell from Nebraska, would that be... [LB1119]

RON HINKLEY: Anything would be better than nothing, you know, but I hate to see them go. I quite frankly have been involved with these indirectly, watching them, supplying them, going to areas where hundreds have been launched at a time. I have not been at an event where it caused a problem. The only failures I see is when...if you were...an area where they gave, you know, 50 or 100 people these lanterns, we're all going to launch them at once. A person needs to say to everybody, this is exactly how you do it and demonstrate it so they know the duration of time and you're lighting it and so on. The times I've seen those lanterns not fly is when somebody has lit it and they aren't paying attention to it and they turn it sideways or look away or they're not paying attention to what they're doing. That will compromise the balloon itself. It burns the paper. And they talk about this won't burn. Well, it really won't burn, catch fire and...but it will melt it and now all of a sudden that balloon has been compromised and won't fly correctly. [LB1119]

SENATOR HARR: Okay. Thank you. [LB1119]

SENATOR LATHROP: I think that's it. [LB1119]

RON HINKLEY: Okay. [LB1119]

SENATOR LATHROP: Thank you. [LB1119]

RON HINKLEY: Thank you. [LB1119]

RICH LUDVIK: Good afternoon, ladies and gentlemen. My name is Rich Ludvik. I believe you should have my paperwork. [LB1119]

SENATOR LATHROP: Can you spell your last name for us, Rich? [LB1119]

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RICH LUDVIK: It's spelled L-u-d-v-i-k. I'm president and owner of Ka-Boomer's Half Price Fireworks. I'm located in Wahoo, Nebraska. I've been in the fireworks business for 30 years. If any of you would like to see one that's actually inflated, I could pass these around. I do have some pictures of the packaging and so forth. One thing that was just brought up in the last questions was the age limit, and--if you would pass that around--we have on ours that you must be...some of them say 18 years old and this product is to be used by responsible adults only. And I also want to address something that was brought up earlier by the gentleman from the firemen's association where this no longer falls under being tested by the State Fire Marshal. And actually three years ago when the Fire Marshal was still testing fireworks, this was an item that was approved by the State Fire Marshal. So it was on the Nebraska approved list. We sell on average about 9,000 to 10,000 pieces of this per year. Up to this date we have not had any complaints. We keep in contact. We have 175 stands in five states. We have not had any complaints, any observations by being informed by anyone of any problems. And we oftentimes keep in contact with fire departments and so forth if there were any problems. The states always give us reports at the end of the year of injuries sustained by fireworks, and we have not had any reports of any damages due to this product. And I'm just a small member of this where I say I sell 9,000 to 10,000. I have a large group behind me, again, just a small fraction of the amount of stands that are just in Nebraska and they sell much more than I do. So I'm just letting you know that if there was a lot of accidents with this item, believe me, this would be in the papers, in the news, on the TV right along...and, you know, because if...and nowadays if there's a child that's burned with a sparkler, it's kind of like headline news in the paper. So I just want to, you know, let you know that that's not happening. To me people that pull into a gas station smoking a cigarette or keeping their car running while they're, you know, filling up their cars is a lot more dangerous than this. But I just want to let you know as far as the safety factor that the Fire Marshal has approved this in the past. And for my knowledge there are not any exorbitant amounts of any complaints. I'll take any questions. [LB1119]

SENATOR LATHROP: Okay. Senator Council. [LB1119]

SENATOR COUNCIL: I'm going to be quick. Thank you, Mr. Ludvik. And I just want to make sure I heard you correctly, you sell 9,000 to 10,000 units of these balloons. [LB1119]

RICH LUDVIK: Yes. Yes. [LB1119]

SENATOR COUNCIL: Just in Nebraska? [LB1119]

RICH LUDVIK: No, we're in five states. [LB1119]

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SENATOR COUNCIL: Okay. That's what I was trying to... [LB1119]

RICH LUDVIK: Yes. [LB1119]

SENATOR COUNCIL: Between the five states that... [LB1119]

RICH LUDVIK: Correct. [LB1119]

SENATOR COUNCIL: Okay. Thank you. [LB1119]

SENATOR LATHROP: Senator Coash. [LB1119]

SENATOR COASH: Thank you. Mr. Ludvik, thank you for bringing that. I looked and it says to be used by adults only. [LB1119]

RICH LUDVIK: Yes. [LB1119]

SENATOR COASH: When you sell these, if a 12-year-old comes up, will you sell it to him? [LB1119]

RICH LUDVIK: If they're with their parents. [LB1119]

SENATOR COASH: Okay. [LB1119]

RICH LUDVIK: There's a lot of different fireworks that we maintain that position and there's a lot of cities, Lincoln is one of them, that you have to be it's either 16 or 18 years old to buy fireworks. So that's already kind of covered in a lot of the city statutes. [LB1119]

SENATOR COASH: So your policy when you sell these...when you sell the sky lanterns is you don't sell to children unless they're with a parent. [LB1119]

RICH LUDVIK: Well, I'm not at all 200 of my stands. But to the best of my knowledge, they are sold to adults only or with children when they're with their adult parent or guardian. [LB1119]

SENATOR COASH: But you do that voluntarily not because...I mean, you have other... [LB1119]

RICH LUDVIK: Well, being that we've been in business for 30 years and we have a clean slate as far as injuries, problems, lawsuits, we have none. So we're always very careful. [LB1119]

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SENATOR COASH: But you have other types of fireworks that you do restrict the sale to kids voluntarily. [LB1119]

RICH LUDVIK: Like I said, in the cities where they have the statutes where it's adult only, we make sure that that is followed. We have them show a driver's license and IDs. [LB1119]

SENATOR COASH: Okay. Thank you, Mr. Ludvik. [LB1119]

SENATOR LATHROP: I do have one question for you. And I think we're done with this so you can pick that up when you're done. [LB1119]

RICH LUDVIK: Okay. [LB1119]

SENATOR LATHROP: To what extent is this part of a religious observance if at all, not a tradition, okay, not a tradition like we have a tradition of shooting fireworks off on the Fourth but part of a religious observance if it is? [LB1119]

RICH LUDVIK: I would...most of what I sell is just during that window opportunity for the Fourth of July. There are other people that will be testifying. [LB1119]

SENATOR LATHROP: Okay. [LB1119]

RICH LUDVIK: ...I would recommend because I don't... [LB1119]

SENATOR LATHROP: Okay. Somebody can answer that. [LB1119]

RICH LUDVIK: I want to just be honest with you, I don't do that. But there are people here that do that, so. [LB1119]

SENATOR LATHROP: Very good. Thank you. [LB1119]

RICH LUDVIK: Thank you very much. [LB1119]

SENATOR LATHROP: Next testifier. [LB1119]

CURTIS SCHNASE: (Exhibit 1) Good afternoon, Senators. My name is Curtis Schnase, C-u-r-t-i-s, last name Schnase, S-c-h-n-a-s-e. I'm here speaking on behalf of my brother Clark and myself as owners of Davey Fireworks. We've been in business for 35 years. The handout I gave to be passed out is an excerpt from the Boy Scouts of America. Senator Coash, you've asked about the age of this, and this is actually some information I found on the Web. I was not able to find their books to bring with me today, but I did take this from the boyscoutstrail.com Web site. And as part of the Bear Cub

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Scouts, which are basically third grade individuals in Cub Scouts, they are taught part of their aviation and airplane stuff to build hot air balloons, which Item 4 of the...on the second page describes how to build one of these from plastic bags using hair dryers, candles, what such forth to launch these. So the book that I did follow up on was printed in 1989. I'm sure this has been practiced for several years prior to that too. So that's...I just wanted to bring this to, you know, the attention that, you know, if this legislation would go through basically we are going to also be banning activities of the Boy Scouts in the state from this practice, which that would be interesting I guess is all I'm going to leave that at. As far as a retailer goes, I've been in the business 35 years selling fireworks. Like Rich, we do have a clean slate--no issues, no problems, you know, lawsuits, anything on our record. This year alone I run a single stand and had sold a little over 2,000 of these, this particular item. A friend of mine, Pat Egan, who owns the Crazy Cracker stands in the area, informed me that he was selling between 4,000 and 6,000 of those. And that's in the Lincoln vicinity, too, is where most of his stands are. So just within our two areas, that's 6,000 to 8,000 of these that went up during the Fourth of July season. And, again, that I'm aware of no fires, no complaints, no issues. Now, again, I probably would go as far to say as there's probably more cigarette butts thrown out and ditches burned than there would be of a sky lantern coming down and catching a field on fire. Again, that's my opinion but nothing more, so. But thank you for the time for allowing me to speak today, and if anybody has any questions, I'd be happy to answer anything. [LB1119]

SENATOR LATHROP: Very good. I don't see any questions. [LB1119]

CURTIS SCHNASE: Thank you again. [LB1119]

SENATOR LATHROP: Thank you. Good afternoon. [LB1119]

DAN WILLIAMS: Good afternoon, Senators. My name is Dan Williams, W-i-l-l-i-a-m-s, and I am with Wild Willy's Fireworks. We are an importer and distributor and retailer in the state of Nebraska. And as Mr. Schnase had just indicated, we are also a seller of sky lanterns. And he had just mentioned that he knew between 6,000 and 8,000 of these sky lanterns went out into the Nebraska area. We strictly sell in Nebraska through stands and wholesalers, and last year alone we sold approximately 8,000 of these sky lanterns. I think the biggest misconception here that we're dealing with is with these sky lanterns is how they work. Obviously when they come down, and I've had the opportunity to speak to Mr. Karpisek through e-mails, they do come down stone cold. Fireworks themselves can be a dangerous product if not lit in a orderly way and in a safe way along with sky lanterns. But, again, used correctly and used according to the directions, they're 100 percent safe, just as safe as fireworks are. Mr. Stilmock was up here and mentioned a gel that's contained in those containers, and I feel that this really has nothing to do with sky lanterns. The disk on these is a material that burns and when it burns you see it burning. That's what gives off the glow of the sky lantern. I think,

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again, the bill that's been introduced is very speculative. And up until this point, again, I have done research and have seen no issues with these and burning fields. And I don't think this is either an insurance issue. You know, insurance is an issue by itself. I know some people had talked about insurance, having concerns of their fields. I come from a long family of farmers and we have concerns for our fields, too, but, again, this has never been a concern. One last thing in closing, there is a regulatory agency. It's probably one of the strictest regulatory agencies we deal with in the fireworks business, and that is the CPSC. You're probably all familiar with it, the Consumer Product Safety Commission. These people have looked at these and have found no problems with them, so I feel that if a national-level agency has seen these and not had issues I feel the state of Nebraska shouldn't have issues as well. Thank you. [LB1119]

SENATOR LATHROP: Very good. Thank you for your testimony. I see no questions. [LB1119]

DAN WILLIAMS: Okay. Thank you. [LB1119]

SENATOR LATHROP: Anyone else in opposition? [LB1119]

MARVIN KOHLER: Good afternoon, Senators. My name is Marvin Kohler, K-o-h-l-e-r, from Grand Island, Nebraska. I have been in the fireworks business 51 years. I'm former president of the Nebraska Fireworks Retailers Association. I would like to present to you the idea that in any product, of course, that we bring about, and the sky lanterns are actually a fairly new product for the U.S. market, and I think that one of the key issues is labeling. As Dan just mentioned, CPSC has always emphasized a good labeling process. There's probably no doubt that some items, some part of this item is...needs to be improved, and that being the labeling process and instructions for it. Our association would certainly be an advocate for that process. And after looking at the potential for problems that might exist to develop a better label and encourage the Chinese and any other manufacturers, whether it be Thailand, China, wherever, to utilize a better labeling process. So that's what I like to bring before you. And also I think one of the issues that exists in the bill is the issue of possession. You know, certainly as Mr. Hinkley has mentioned, he's a supplier in Lincoln, Nebraska, but he can sell around the country. And to restrict him from possession would not be a logical thing to do, so. Thank you for your time. Any questions? [LB1119]

SENATOR LATHROP: I don't see any. Thanks for coming back. [LB1119]

MARVIN KOHLER: Thank you. [LB1119]

SENATOR LATHROP: Good to see you again. Anyone else here in opposition? Anyone wish to testify in a neutral capacity? Seeing none, Senator Karpisek to close. [LB1119]

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SENATOR KARPISEK: Thank you, Senator Lathrop and members of the Judiciary Committee. We have found issues. I have not found any in the U.S., in the U.K., other places where people are talking about the ban. And Massachusetts was one that I talked about earlier. I agree that if there's not a whole lot of problem reported, people have seen them go up, they haven't seen anything happen. That's a whole issue. They're a long way away. That's my worry is they go up, they go a long way away. How do you know who would have even let it go if something did happen? Talked about any...it's anybody's interpretation on how far a field should be away. I think, again, that's a problem. There should be maybe a set distance. And, again, anywhere in rural Nebraska, five miles away from a field would be pretty hard to do, although there's not near as much wheat as there used to be. It just seems to me when there's a floating fire in the sky, and I understand how the mechanics again work, that they stay up, come down cold. If that doesn't happen, there is an issue. And just want to thank you for hearing the bill today. [LB1119]

SENATOR LATHROP: Senator Karpisek, can you answer a question for me? Do you think this comes within the regulatory jurisdiction of the Fire Marshal? [LB1119]

SENATOR KARPISEK: I think it should, but it does not. [LB1119]

SENATOR LATHROP: So if these things were the most dangerous thing on earth and exported fire all over the state, to use a hypothetical and not a conclusion, the State Fire Marshal couldn't do anything about it? [LB1119]

SENATOR KARPISEK: Well, that's the way that it has seemed while we've tried to work with them because we have...my LA did numerous drafts of this bill on where to put it. And Bill Drafters kept putting it into the pyrotechnic statute and they kept sending it back saying, no, it doesn't belong there, it can't go there because it is not a pyrotechnic. So I would say, yes, I think it should fall under their jurisdiction. You know, we... [LB1119]

SENATOR LATHROP: Do you know if the State Fire Marshal has any concerns about these? Or have they expressed... [LB1119]

SENATOR KARPISEK: Not that they would go on record of saying because, again, it's really not their jurisdiction. I know they have had calls. [LB1119]

SENATOR LATHROP: Okay. Senator Council. [LB1119]

SENATOR COUNCIL: Just a follow-up, Senator Karpisek. At least one of the opponents testified that these lanterns were included among the type of pyrotechnics that were formerly under the Fire Marshal. And when we removed that, it included these balloons. So apparently...I mean, maybe that needs to be cleared up, but apparently at one time the Fire Marshal had jurisdiction over them. [LB1119]

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SENATOR KARPISEK: They did. [LB1119]

SENATOR COUNCIL: And then when we...when the Fire Marshals came and said, you know, we don't need to be inspecting these things, it included these balloons. [LB1119]

SENATOR KARPISEK: And I think you're probably right on that. I can't say one way or another. I know they did test them three years ago but now they don't. [LB1119]

SENATOR COUNCIL: And that's due because we passed a bill that...when they said they didn't need to test them anymore. [LB1119]

SENATOR KARPISEK: I can't be definitive on that but I would...if I had to guess I'd say yes. [LB1119]

SENATOR COUNCIL: Wasn't that last year? Senator Rogert's bill. Senator Rogert's bill where the Fire Marshal said we didn't need to inspect these things anymore. [LB1119]

SENATOR KARPISEK: I told you he was trouble. (Laughter) [LB1119]

SENATOR LATHROP: All right. Thanks, Senator Karpisek. [LB1119]

SENATOR KARPISEK: Thank you. [LB1119]

SENATOR LATHROP: That will close our hearing on LB1119, and take us to LB816 and Senator Pirsch. Okay. Senator Pirsch, with that. [LB1119]

SENATOR PIRSCH: Good afternoon, Vice Chairman Lathrop, members of the Judiciary Committee. I am State Senator Pete Pirsch, P-e-t-e P-i-r-s-c-h, for the record, representing the Legislative 4th District. I am the sponsor of LB816. LB816 amends Section 29-2264(5) to provide that the setting aside of a conviction does not preclude the use of a conviction as evidence of the commission of a felony or misdemeanor to determine whether or not a law enforcement certificate or application for a certificate may be denied, suspended, or revoked. The rationale for this change is that criminal convictions are relevant to the ability of an individual to perform their duties as a law enforcement officer and that all relevant evidence should be available in the licensure action regarding the law enforcement certificate. Current law provides that setting aside a conviction may be considered for foster care licenses, childcare licenses, and teaching certificates. LB816 adds law enforcement certificates to this list. And we are going to have Jeff Beaty from the...who's here to testify on that from Community Corrections Division of the Crime Commission as to further merits of the bill. So with that, unless there's any questions, I'll... [LB816]

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SENATOR LATHROP: Senator Council. [LB816]

SENATOR COUNCIL: Just a question for the record. [LB816]

SENATOR PIRSCH: Sure. [LB816]

SENATOR COUNCIL: I guess I was surprised, Senator Pirsch, that for all these years that we've had this statute (inaudible) that you can't ignore...a conviction has been set aside if you need...if you wanted to get a childcare license or a teaching certificate but it didn't apply to somebody who was going to be a law enforcement person. I mean, for all these years it's... [LB816]

SENATOR PIRSCH: It surprised me too. Yeah. [LB816]

SENATOR COUNCIL: It's shocking. That's all. [LB816]

SENATOR PIRSCH: Thank you. [LB816]

SENATOR LATHROP: Can you give us a practical application of this? What are you trying to fix? [LB816]

SENATOR PIRSCH: Well, it's just the extent of, you know, there's many positions of trust in society and certainly a foster care provider, a parent is entrusted with the health and safety of a kid, a precious resource. Childcare, same type of activity. A teacher has access to kids. And so when you're talking about a law enforcement officer, the idea is that they do come into...they are...a great deal of power is reposed in that position. And it's a position of trust in that similar to those other list of professions that a lot of trust is reposed in that you want to make sure that the individual who's occupying there, you want to make sure that the curtain is revealed so that at the point in time that you...yeah. [LB816]

SENATOR LATHROP: Okay. Give me an example of a crime and give me an example of a position. [LB816]

SENATOR PIRSCH: Well, I'm going to probably defer, if you don't mind, to Jeff Beaty from the Crime Commission Division if you did, but. [LB816]

SENATOR LATHROP: Okay, okay. [LB816]

SENATOR COUNCIL: Senator Lathrop, if I may. [LB816]

SENATOR LATHROP: Senator Council. [LB816]

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SENATOR COUNCIL: And that's why I asked the question that I asked. Currently if a person applies to be a licensed law enforcement officer, a member of the police force, a member of the State Troopers, if they have a felony or a misdemeanor conviction on their record, that can be considered in excluding them from consideration for employment. And up until this bill if they had had a conviction that was set aside, they couldn't...the law enforcement certifying agency couldn't look at that conviction because they had had it set aside. And that's what I'm surprised that if you were applying for... [LB816]

SENATOR LATHROP: And this bill would let them. [LB816]

SENATOR PIRSCH: It just allows...yes, you... [LB816]

SENATOR COUNCIL: Yeah, it just allows them to look at the conviction. [LB816]

SENATOR PIRSCH: You can look at it as a consideration so that you have a greater understanding of the total package of the applicant who's in front of you, whether or not they'd be fit to serve in this high position of trust. So thank you. [LB816]

SENATOR LATHROP: Okay. I see no other questions. Are you going to stay to close? [LB816]

SENATOR PIRSCH: I have the next bill as well, although our Revenue Committee is meeting, so I will stay. [LB816]

SENATOR LATHROP: Okay. Proponents. [LB816]

MIKE BEHM: Good afternoon... [LB816]

SENATOR LATHROP: Good afternoon. [LB816]

MIKE BEHM: (Exhibit 3) ...Senator Lathrop, members of the Judiciary Committee. My name is Mike Behm, B-e-h-m. I'm the executive director of the Nebraska Crime Commission. Some of the opening remarks by Senator Pirsch, I'm going to skip over to some more that might answer a few of the questions that the committee might have and also I'll be...welcome to answer any questions if you have. [LB816]

SENATOR LATHROP: Okay. [LB816]

MIKE BEHM: The purpose of this LB816 is to allow the Crime Commission and the Police Standards Advisory Council, which is jointly responsible for issuing and regulating law enforcement certificates in Nebraska, to revoke, suspend, or deny a law enforcement certificate based upon a prior conviction which was later set aside. Public

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trust in law enforcement officers is an important issue. And the Police Standards Advisory Council and the Crime Commission feel that the criminal convictions, even if set aside, are relevant to the issue of whether or not an individual is qualified to be a law enforcement officer in the state of Nebraska. Again, I thank you for the opportunity to testify today, and I'd be happy to answer any questions. [LB816]

SENATOR LATHROP: Okay. Any questions? Maybe I'll ask one just to clarify this circumstance. If somebody completes probation and they petition the court, they can have it set aside under current law, right? [LB816]

MIKE BEHM: Yes. [LB816]

SENATOR LATHROP: And in order for that to happen, does the court have to make some determination that they're not going to do this again or they're a good person or... [LB816]

MIKE BEHM: I believe yes. Yes, sir. [LB816]

SENATOR LATHROP: Okay. If we allow this exception, in other words set aside you can't look at it and we regard it as though it never happened, if we allow this exception, is there anything left of the rule? What's the...is there anything left in the statute that says you get it set aside? [LB816]

MIKE BEHM: Under the current statute, Senator? [LB816]

SENATOR LATHROP: Yes. [LB816]

MIKE BEHM: No. [LB816]

SENATOR LATHROP: Okay. [LB816]

MIKE BEHM: I would like if I could clarify something. [LB816]

SENATOR LATHROP: Sure. [LB816]

MIKE BEHM: As an example, I'm not going to use any names, what county this was in. Back in 1999, an officer was charged with oppression under color of office. [LB816]

SENATOR LATHROP: A what? [LB816]

MIKE BEHM: Oppression under color of office. [LB816]

SENATOR LATHROP: Which means what? [LB816]

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MIKE BEHM: A Class II misdemeanor. He misused his authority I guess. I'm not going into a lot of specifics about the case. [LB816]

SENATOR LATHROP: Okay. [LB816]

MIKE BEHM: He was found guilty of this, a Class II misdemeanor. Later on in 2002, prior to me becoming executive director of the Crime Commission, a complaint was filed against this officer by then director of the law enforcement training center. In 2003, this individual officer went before the courts for a petition who then set aside his conviction and basically nullified it. What we're trying to do here today is, I believe that Senator Pirsch put this in the best...that we have a public trust in law enforcement officers I think. And we've all read some horror stories in the papers, even within Nebraska, some things that have been accused and later found to be true of law enforcement officers in Nebraska. When somebody is charged with a crime and wants to retain that law enforcement certificate, we have no guarantee right now, even if they're not working in law enforcement, that later on that they would go, after this had been nullified, and apply to another agency within Nebraska and be hired. We have many agencies who do a variety of background investigations and with that, not all of them do as thorough as the larger agencies and they could end up working for a law enforcement agency even though they have been convicted and, in my opinion, shown poor judgment in being convicted of a crime, but yet it was nullified. [LB816]

SENATOR LATHROP: Okay. Is this limited to law enforcement people? I see that it applies to certificates issued under Chapter 81-1401 to 1414. Is that all law enforcement? [LB816]

MIKE BEHM: Yes, sir. [LB816]

SENATOR LATHROP: Okay. Thank you. I see no other questions. [LB816]

MIKE BEHM: Thank you. [LB816]

SENATOR LATHROP: Thank you for your testimony. [LB816]

MIKE BEHM: Thank you. [LB816]

SENATOR LATHROP: Other proponents, if any. Anyone here in opposition to LB816? How about a neutral capacity? I see none. Senator Pirsch, you're free to close if you choose to. [LB816]

SENATOR PIRSCH: I'll be very brief. Thank you. So to garner more information on this Chapter 29-2264(1) speaks to this and, you know, as a prosecutor I saw this a number

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of times where...and the...so Section 1 you're dealing with probation, right, people who successfully complete that or a fine. There's a recipe for considerations that a judge shall consider but there's no more instructive authority to just say, look at these kind of things, Judge. But it doesn't tell you how to weigh one or whatnot. So under (3) "The behavior of the offender after sentencing," and that could...you know, it doesn't matter if two days after. It doesn't say two years after. It doesn't...it's pretty general loosey-goosey. "The likelihood that the offender will not engage in further criminal activity." Again, pretty general, you know, any other information the court decides that they consider relevant. And really that's it. That's the only instruction. So a lot of these decisions are made by a judge relatively quickly and, you know, so. There's in (4) a list of...the set is...there's a list under...I'm sorry (5) that says, "The setting aside of a conviction in accordance with Nebraska Probation Administration Act shall not," and then it says what it won't. And then there's (a), (b), (c), (d), and (e) and (f) and (g) that talks about what will not be changed. And actually (i), (j), and so this adds an (h). And so there's other things for which this won't...including for the purpose of setting aside a conviction so that like a DUI conviction in the past so it's such that the prosecutor in the future could not consider that prior incident from two years ago to enhance your present DUI. That's not something that would be. So there's a number of these type of things, and I appreciate it. [LB816]

SENATOR LATHROP: I get it. All right. [LB816]

SENATOR COUNCIL: A quick question, Vice Chairman Lathrop. The bill as you are introducing it, Senator Pirsch... [LB816]

SENATOR PIRSCH: Yes. [LB816]

SENATOR COUNCIL: ...adds a provision to the current statute that deals with when someone can consider a conviction has been set aside. [LB816]

SENATOR PIRSCH: Yeah, permitted uses. [LB816]

SENATOR COUNCIL: Yeah, right. Currently, the law allows you to consider a conviction that has been set aside if you're seeking a childcare licensing provision. And it says, certificate issued should be denied, suspended, or revoked. Now there are certain provisions under the Child Care Licensing Act that if you had been convicted of a particular offense, you wouldn't...your application would be denied. Am I correct? [LB816]

SENATOR PIRSCH: Yeah, I think you're referring to (g), right, when you're referring to Child Care Licensing Act? Yeah. [LB816]

SENATOR COUNCIL: Yeah, by comparison trying to get to the issue that Senator

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Lathrop is I think raising. And I believe that the Child Care Licensing Act sets forth certain acts for which a conviction precludes you from holding a license. [LB816]

SENATOR PIRSCH: I believe that's correct. [LB816]

SENATOR COUNCIL: And I think that's correct. And what the statute says in (g) with regard to childcare licensing, even if that conviction was set aside for purposes of obtaining a childcare license, the licensing authority is free to look at that conviction if it's been set aside, correct? [LB816]

SENATOR PIRSCH: I believe that's correct. [LB816]

SENATOR COUNCIL: The same holds true because sections...still in (g), Section 79-806 to 79-815 of the teaching certification provisions, and there are certain convictions that would preclude you from obtaining a teaching certificate, correct? [LB816]

SENATOR PIRSCH: That's correct. [LB816]

SENATOR COUNCIL: And under the statute as it currently exists, even though you may have had that conviction set aside, under current statute that licensing authority is free to look at that conviction to determine whether you should hold the license, right? [LB816]

SENATOR PIRSCH: Yeah, they can look at it. Yeah. [LB816]

SENATOR COUNCIL: Now what your bill does as I understand it as it relates to law enforcement certifications, it does for law enforcement what we currently do to school teachers and people trying to be licensed for childcare. [LB816]

SENATOR PIRSCH: Correct, Senator. [LB816]

SENATOR COUNCIL: Okay. So if you are convicted of one of those offenses that would preclude you from obtaining a law enforcement certificate, and even though that conviction was set aside, the licensing authority is free to look at that in determining whether you should obtain a license. [LB816]

SENATOR PIRSCH: Yeah. They can look at it as one factor. [LB816]

SENATOR COUNCIL: Okay. Okay. [LB816]

SENATOR PIRSCH: Yeah. Thank you. [LB816]

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SENATOR ASHFORD: Do you have the next one too? [LB816]

SENATOR PIRSCH: (See also Exhibit 2) I do. [LB816]

SENATOR ASHFORD: LB817. [LB817]

SENATOR PIRSCH: Again, thank you, Chairman Ashford, members of the committee. I am the sponsor of LB817 as well. LB817 is a follow-up bill to LB390 from last year which eliminated the Community Corrections Council and created the Community Corrections Division of the Nebraska Commission on Law Enforcement and Criminal Justice. LB817 clarifies that the focus of the new division is on research, evaluation, and data analysis. Creates a new duty for the division to handle all offender data in a confidential manner and not release any identifiable information, and cleans up the Community Corrections Act by eliminating outdated and duplicative duties. With that, I would make myself available to questions. I do anticipate waiving closing insofar as there's a number of matters still undergoing in Revenue Committee. [LB817]

SENATOR ASHFORD: Okay. Any questions of Pete? We're okay. Thanks, Pete. Any testifiers, proponents? Yes, sir. Mike. [LB817]

MIKE BEHM: (Exhibit 4) Good afternoon, Senator Ashford, members of the Judiciary Committee. My name is Mike Behm, B-e-h-m. I'm the executive director of the Nebraska Crime Commission. Specifically, LB817 proposes the following changes to the Community Corrections Act: It creates a new duty for the division to manage all offender data confidentially and develop procedures to avoid the release of identifiable information. It clarifies that the division collaborates with Probation, Corrections, and Parole to establish a statewide plan for a community corrections program and services. It adds specialized community corrections programs and problem-solving courts to the uniform crime data analysis system. It eliminates unnecessary, duplicative statutory duties relating to the program standards and funding for substance abuse services. Together, these changes will complete the transition from the council to the Community Corrections Division that began last year and enhanced the division's ability to promote community corrections as a safe and effective alternative to incarceration. I thank you for the opportunity to testify today and would be happy to answer any of your questions. [LB817]

SENATOR ASHFORD: Okay. Any questions of Mike? Seeing none, thanks, Mike. [LB817]

MIKE BEHM: Thank you. [LB817]

SENATOR ASHFORD: Any other proponents? Any opponents? Neutral? Okay. Who do we have, go to the next bill, LB951. Senator Harr. [LB817]

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SENATOR HARR: (Exhibit 5) Thank you, Mr. Chairman and fellow members of the Judiciary. My name is Burke Harr. I am the Senator Harr with two r's, H-a-r-r. I come before you with LB951, a rather timely bill given what we have debated on the floor the last two days. This is very similar to those bills in that and it's building also on a bill we passed last year from Senator Gloor out of this committee and made into law. It has to do with charging assault with a bodily fluid. What this bill merely does is add first responders to assault. And you might ask yourself why do we need this bill. And Senator Lathrop said it best yesterday, because these are the people that are running towards somebody to provide care. And what this bill helps to eliminate is the...I will refer to as the housekeeping situation or the housekeeper that Senator Council used on the floor yesterday as well where if there is an individual who a first responder is assisting along with a police officer, if there is assault with a bodily fluid on the police officer, it could possibly be a felony. And that same action done to a first responder would not be. And so what we're doing is just clarifying and making sure that all parties are treated equally. I think we all agree our first responders deserve extra protection. With that, I have a statement also from Bruce Beins of the Nebraska Emergency Medical Services Association, which I will pass around, a statement urging the advancement of LB951, and ask that it be made part of the record. I am available for any questions. [LB951]

SENATOR ASHFORD: Okay. Any questions? Senator Harr is available. [LB951]

SENATOR COUNCIL: Oh, I can't let it go. (Laughter) [LB951]

SENATOR ASHFORD: Senator Council. [LB951]

SENATOR COUNCIL: So when we were discussing this last year, the definition of public safety officer, and I...my recollection is, I didn't go back and pull up the transcript, but I thought my...I thought we discussed EMTs. [LB951]

SENATOR HARR: We did. [LB951]

SENATOR COUNCIL: And what happened to them? [LB951]

SENATOR HARR: When it was discussed last year, Senator Gloor asked that we not include them for the reason he would like to see a protection passed, and then down the road we could add the other important parties. But it was based on... [LB951]

SENATOR COUNCIL: Oh, you really want me to vote against this, don't you?
(Laughter) [LB951]

SENATOR HARR: I'm just telling you. I think, you know, it was very important to what

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we talked about. And I think we need to have a public policy debate, and I hoped we would have it and we didn't in the last couple of days on how do we want to protect people who, as part of their job, they do become...open themselves up to attack, whether it's an ER nurse, whether it's a housecleaning person who happens to be working in the ER, whether it's a police officer and/or an EMT. But I think...or a social worker. But there are people who, as part of the course of their duties, they do expose themselves to danger and do we want to treat them differently under the law? [LB951]

SENATOR COUNCIL: Now should we add good Samaritan? [LB951]

SENATOR HARR: What's that? [LB951]

SENATOR COUNCIL: Should we include in the definition of first responder good Samaritan? [LB951]

SENATOR HARR: That is not part of the...in this, no, because it has to be part of your duty as your job. It's someone who's coming to respond. That being said, I am open to amendments. [LB951]

SENATOR COUNCIL: Thank you, Senator Harr. [LB951]

SENATOR ASHFORD: Thanks, Senator Council. Thanks, Senator Harr. [LB951]

SENATOR HARR: Thank you. [LB951]

SENATOR ASHFORD: Do we have any proponents? [LB951]

DAVID ENGLER: Good afternoon, Chairman Ashford, members of the committee. I'm Dave Engler, E-n-g-l-e-r, president of the Nebraska Professional Fire Fighters Association. We support this. As a firefighter, EMT, and first responder, we find ourselves in difficult positions which set us up for these potential assaults. And you find yourself leaning over a person, holding manual in-line immobilization for a spinal injury, and someone spits on you. You find yourself kneeling in front of a person, assessing them, you're a perfect target for this. And although we do wear protection and that sort of thing, it is very common to have these things happen. And I've actually had it happen to me. It was an individual who had a bloody...it was like a big paper towel, a balled-up paper towel, saturated in blood. She was a regular customer of ours, had...was hepatitis C positive. And when I walked up to her and made contact with her, she threw it right in my face hitting me in my face. Those kind of actions are clearly intentional and could potentially cause harm and spread the communicable diseases against first responders. This is not a situation where we're asking the occasional citizen who just vomits on somebody accidentally. I mean those things go on every day. We're talking about people that are actually intentionally trying to cause harm to somebody by using their

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body fluids. So, again, we're certainly in support of this and we thank Senator Harr for introducing it and recognizing first responders. I think it's a little bit odd that public safety didn't include public safety personnel in the last round. But we'd certainly like to have this passed and we'd like to be part of this and have this protection for those that this happens to. [LB951]

SENATOR ASHFORD: Yes, Senator Council. [LB951]

SENATOR COUNCIL: Thank you, and thank you, Mr. Engler. And maybe you can refresh my recollection. When this bill was introduced last year, the current law, wasn't there discussion about EMS and EMT? And why were they left out? [LB951]

DAVID ENGLER: I believe there was, and I don't know the real reason they were left out, but we were told that we weren't going to be part of that, and we had asked numerous people to include us in on it. And we...when you're talking public safety, I mean, first responders are part of public safety and we originally just assumed that we would be part of it. And then we found we were not part of it. [LB951]

SENATOR COUNCIL: Okay. And I guess that's my surprise because I have the recollection of it and I didn't realize that they were left out. I mean, if there's going to be public safety, clearly it involves firefighters and...and just curiosity, I don't know... [LB951]

DAVID ENGLER: It appears... [LB951]

SENATOR COUNCIL: Dave, if you know the answer to this or not, are firefighters, whether paid or volunteer, accorded the same kind of treatment under the assault statutes as a police officer? [LB951]

DAVID ENGLER: No. And I would say I'm not an expert on it, but I don't believe that that's the case. [LB951]

SENATOR COUNCIL: Okay. Thank you. [LB951]

DAVID ENGLER: Yes. [LB951]

SENATOR ASHFORD: Yes, Senator Lathrop. [LB951]

SENATOR LATHROP: Can I ask just a question? I know that when Senator Gloor's bill went, we were talking about people that could sit in a room or a cell or wherever they were, and it was his...well, wherever they were and they could deliberately amass some body fluids and throw it at a worker. The people that we're talking about here, are they folks that are...generally, are they people that have some disease that you can pick up?

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Is that who the people are that are doing this--somebody with hepatitis; somebody with AIDS; somebody with something that causes you concern, not just that you're going get hit with spit but that you're going pick something up from it? [LB951]

DAVID ENGLER: That would be the worst-case scenario, and of course that would be the one where, you know, people can use bodily fluids in those cases as a weapon. There are other people out there that are just doing it because they're noncompliant and they want to be difficult, and that's apparently their way of expressing themselves. But my deepest concern is that we've got people out there that may use communicable diseases as a method, as some sort of a weapon. So, yes, that's a huge concern of ours. [LB951]

SENATOR LATHROP: How prevalent is this, Dave? [LB951]

DAVID ENGLER: It happens a lot. I'm not going to say people with communicable diseases, but as I was walking in I was talking to a firefighter about a different issue. I said, I got to go testify on this bill. And he goes, yeah, I've had that happen three times to me. And, I mean, it happens commonly. Typically it's after midnight on a street with a lot of liquor establishments. But, I mean, it does happen very regularly that we have this kind of thing happening. [LB951]

SENATOR LATHROP: Okay. Thanks. [LB951]

DAVID ENGLER: Yes. [LB951]

SENATOR ASHFORD: Thanks, Dave. I don't see any other questions. [LB951]

DAVID ENGLER: Okay. Thank you. [LB951]

SENATOR ASHFORD: Okay. [LB951]

JERRY STILMOCK: Senators, my name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of the Nebraska Fire Chiefs Association and the Nebraska State Volunteer Firefighters Association in support of LB951. Both of my clients are very supportive of the measure. We were here last year testifying on Senator Gloor's bill and following the I guess somewhat protocol, maybe the unspoken protocol the Senator...the introducing senator last year preferred to go it alone without adding first responders to the list of public safety officers. I went back and reviewed and recalled that on the floor there was another group that was added. Those were the YRTC workers. I had a conversation with a gentleman you all know that his previously life was in EMS, EMT, out of Hastings. And I shared with him, he said, well, you know, kind of what are the issues going on this year for you? And I reminded him of this bill. He said it happened to him all the time, Lieutenant Governor Sheehy. And most...I said,

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in what kind of circumstances? And those circumstance to which he responded were mostly on the emergency intakes. Whether or not that comes into knowingly and intentionally might not be the case but certainly what the last testifier shared, what I've asked of the volunteers is it is happening. Two items to consider, not particularly earth shattering, but in reading the bill at page 2, line 13, after the reference to "or skin of a public safety officer," I would ask the committee to consider, Senator Harr, "or first responders." It's just an item to make certain that "or first responder" is included in both references--item number one. Item number two is, on the agenda on the floor has been Senator Christensen's bill, LB646. Whether or not that makes it up tomorrow I don't know if anybody...if we've seen it yet for tomorrow. The word on page 3, line 11 goes to the issue that Senator Christensen's bill that came out of the Health Committee, LB646. On page 3, line 11 the word "immediate," the second word in the phrase...in that line is the consideration of LB646 tomorrow. And it's...LB646 would remove the word "immediate" in terms of EMS and the EMS Act, just to share that information with you this afternoon depending on what the body does and so forth. I urge your advancement of LB951. Thank you. Yes, sir. [LB951]

SENATOR ASHFORD: Any other testifiers on this bill? Senator Harr. [LB951]

SENATOR HARR: Thank you, Senator Ashford. I'll be quick and brief. This bill looks to protect people who come in in the heat of the moment. They don't have the luxury always of waiting until a party calms down. They have to administer first aid, and that's what we want. It's good public policy--want these individuals to rush in. We don't want them to sit back and wait until the party affected has calmed down and/or sobered up or whatever the situation may be. So given that, I think it's a good law and I would ask you to advance it. Thank you. [LB951]

SENATOR ASHFORD: Thank you, Senator Harr. Okay. LB1009. [LB951]

SENATOR LATHROP: Welcome, "Dean." (Laughter) You're good to open on LB1009. [LB1009]

SENATOR ASHFORD: Okay. Vice Chairman Lathrop, my name is Brad Ashford. I'm representing District 20 and I'm introducing LB1009 on behalf of the probation administration. And it relates to the release of certain probation records, specifically the release of drug and alcohol testing information and the desire of the probation administration not to release those particular records other than in very specific situations. And Korby Gilbertson is here to talk about an amendment that would provide for the release of those records pursuant I believe to a public records request or maybe there's another part to it. But this is a very simple bill in that regard in that inasmuch as it removes any exemption for drug and alcohol records that is currently in the law. That's it. [LB1009]

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SENATOR LATHROP: I see no questions. Thank you, Senator Ashford. Proponents. [LB1009]

ELLEN FABIAN BROKOFISKY: (Exhibits 6-7) Good afternoon, Chairman Ashford and members of the Judiciary Committee. My name is Ellen Fabian Brokofisky, B-r-o-k-o-f-i-s-k-y. I am the state probation administrator and am employed by the Nebraska Supreme Court. I testify today in support of LB1009, as this piece of legislation clarifies statutory language that all records developed and created by a probation officer through the course of their investigation and supervision of probationers are not subject to disclosure under the Nebraska Public Records Act. This very simple piece of legislation closes a loophole within the Public Records Act. Currently all probation records are exempt from disclosure under the Public Records Act with the exception of a drug and alcohol testing information. When drug and alcohol testing information is released to the public, it may be misleading unless you have a full understanding of what is occurring in this person's life. A probationer may test positive because they're taking prescription medication or the positive drug or alcohol test is being addressed by the probation officer through a probation sanction or the filing of a probation violation. An individual having only the raw data released of the drug and alcohol testing results may misinterpret the information without having additional information which is not available to them. Just reviewing drug and alcohol testing information in isolation does not convey the whole picture of a probationer's success or lack of success. Since everything else in the probationer's file is not subject to the Public Records Act, we feel the drug and alcohol testing results should fall within the same category. I have been apprised by Senator Ashford's office of an amendment being introduced to this bill. I have reviewed amendment AM1829 and believe this amendment would make information provided to law enforcement a public record, just as if it were stated in open court. Therefore, I bring to you an amendment which may more accurately address the issues identified by probation and those within amendment AM1829. You have a copy of that now. As stated previously, all probation records currently may be withheld from the public with the exception of drug and alcohol testing information. The amendment I offer would only affect drug and alcohol testing records. Everything else would remain as it currently exists under the law today. Information released in open court would remain a public record. Information could be released to law enforcement at the discretion of Probation, just as is the current practice, or upon an order of the court if need be. Our only objective in this bill is to remove the drug and alcohol testing information from being subject to the disclosure under the Public Records Act. I would be willing to work with you to achieve this goal. And I appreciate your time and any questions? Sir. [LB1009]

SENATOR LATHROP: This is my question. Right now if an individual is on probation, does this apply to felonies and misdemeanors? [LB1009]

ELLEN FABIAN BROKOFISKY: Yes. [LB1009]

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SENATOR LATHROP: A person is on probation for some offense, right now no one can get to the Probation Department's file? Is that true? [LB1009]

ELLEN FABIAN BROKOFISKY: Right. Correct. Without a court order. [LB1009]

SENATOR LATHROP: Without a court order. Okay. What are we trying to fix? [LB1009]

ELLEN FABIAN BROKOFISKY: The Public Records Act. [LB1009]

SENATOR LATHROP: I know where you're going and I understand it. [LB1009]

ELLEN FABIAN BROKOFISKY: That's the only thing, the drug and alcohol testing. Apparently...there is an exception in the Public Records Act that allows for drug and alcohol testing results to just be anybody. Anybody can come in and say we want the results of that probationer's drug and alcohol test. We didn't know that. [LB1009]

SENATOR LATHROP: And is that like a UA? [LB1009]

ELLEN FABIAN BROKOFISKY: Yes. [LB1009]

SENATOR LATHROP: So if they come in for a UA during the course of their probation, I can come in and say, let me look at Burke Harr's UAs. [LB1009]

ELLEN FABIAN BROKOFISKY: Yes, you can. [LB1009]

SENATOR LATHROP: Is that happening? [LB1009]

ELLEN FABIAN BROKOFISKY: It has happened one time. That's what brought it to our attention. We didn't know it was there. Had we known that there was...we did not have an exception to the Public Records Act, we would have been here sooner. [LB1009]

SENATOR LATHROP: If there's an individual that's on probation instead of going to jail, right? [LB1009]

ELLEN FABIAN BROKOFISKY: Yes. [LB1009]

SENATOR LATHROP: And they're, as the term of probation, told not to drink or abuse drugs... [LB1009]

ELLEN FABIAN BROKOFISKY: Yes. [LB1009]

SENATOR LATHROP: ...and they have a UA, what's the problem with people following

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up to see if the guy is staying clean while on probation? [LB1009]

ELLEN FABIAN BROKOFISKY: No problem. We will do that. [LB1009]

SENATOR LATHROP: No. If I'm the World-Herald or Lincoln Journal Star,... [LB1009]

ELLEN FABIAN BROKOFISKY: Well, as I said...yeah. [LB1009]

SENATOR LATHROP: ...why can't I get to that? If the guy is on probation, doesn't the public have an interest in knowing whether an individual is observing the terms of their probation? [LB1009]

ELLEN FABIAN BROKOFISKY: You know, there is a point to that. I can't disagree with that in terms of in general. But probation is an opportunity to change the behavior that got you involved in the court in the beginning. And when it comes to substance abuse, we have a number of tools to test these individuals and test them on a regular basis to be able to determine if they're using or not. But we know that sometimes one occasion may be a relapse and not an event that causes, you know, this person to go downhill. Everything else may be working fine. Probation may be really well. They may even tell us they've had that experience. [LB1009]

SENATOR LATHROP: Who's...why are we doing this? [LB1009]

ELLEN FABIAN BROKOFISKY: We're doing it so that the... [LB1009]

SENATOR LATHROP: If a guy is on probation and he's got three DWIs, he's...the hypothetical person has three DWIs, and he's told to do a UA and he comes up dirty, why, what's the downside to having the newspaper have access to that? [LB1009]

ELLEN FABIAN BROKOFISKY: Well, I think that it really sets up the probationer to fail and we don't want that. The judge can release that information absolutely positively. It is releasable. We're just saying that when it comes out in public records out of context, I mean, there are so many things that can happen with that from, you know, a person who's actually on the right track, who's made great progress, who's had a slip, who's had an occasion, who's being sanctioned, who probably was punished for that, maybe there was a revocation filed. And then we're going to, you know, announce to everybody in this world that event. And I just, I feel that the Legislature made decisions many, many years ago about those probation records, and I think it was in the interest of safety but also in the interest of rehabilitation. [LB1009]

SENATOR LATHROP: Well, it might have been in the interest of allowing them to come in and be candid with their probation officer too. [LB1009]

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ELLEN FABIAN BROKOFISKY: Thank you, Senator. That's another reason. [LB1009]

SENATOR LATHROP: And the UA doesn't have anything to do with that. [LB1009]

ELLEN FABIAN BROKOFISKY: Yeah. Well, being candid sometimes is telling us before they even have the UA. [LB1009]

SENATOR LATHROP: Well, that's not discoverable though under current law, right? It's just the test. The test result is the only thing we're talking about, right? [LB1009]

ELLEN FABIAN BROKOFISKY: Well, that is a good question. The test result is on a form and it does say drug and alcohol testing results. So that is a good question. [LB1009]

SENATOR LATHROP: Okay. [LB1009]

SENATOR ASHFORD: Senator Council. [LB1009]

SENATOR COUNCIL: Okay. Thank you, Ms. Brokofisky. So under the current law, Probation was operating under the belief that all probation records were confidential. [LB1009]

ELLEN FABIAN BROKOFISKY: Yes. [LB1009]

SENATOR COUNCIL: And they were unaware of the public records exception for drug and alcohol. [LB1009]

ELLEN FABIAN BROKOFISKY: Correct. [LB1009]

SENATOR COUNCIL: Okay. Now question number one. If during the course of some probation review, which are rare, and there are statements made in open court regarding UA results, even under the current interpretation of the statute, Probation didn't consider the release of that information to be privileged, did they? [LB1009]

ELLEN FABIAN BROKOFISKY: Correct. [LB1009]

SENATOR COUNCIL: Okay. So if it was reported in open court that Probationer X failed three UAs, and then someone came in and said, I want the copies of those three UAs... [LB1009]

ELLEN FABIAN BROKOFISKY: It would be up to the judge. [LB1009]

SENATOR COUNCIL: It would still be... [LB1009]

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ELLEN FABIAN BROKOFISKY: Certainly it's up to the judge in every occasion. [LB1009]

SENATOR COUNCIL: It would have still been up to the judge. [LB1009]

ELLEN FABIAN BROKOFISKY: Yes. But it isn't... [LB1009]

SENATOR COUNCIL: And what's the basis for that? [LB1009]

ELLEN FABIAN BROKOFISKY: Well, the statute is pretty clear about anything contained in the presentence. Yeah. [LB1009]

SENATOR COUNCIL: Okay. Anything. [LB1009]

ELLEN FABIAN BROKOFISKY: Yeah. [LB1009]

SENATOR COUNCIL: Okay. Now taking you back to your...and they just left, our community correction days. [LB1009]

ELLEN FABIAN BROKOFISKY: Yeah. [LB1009]

SENATOR COUNCIL: One of the objectives of community corrections was to reduce the number of revocations. [LB1009]

ELLEN FABIAN BROKOFISKY: Yes. [LB1009]

SENATOR COUNCIL: Because a lot of people were being revoked for administrative reasons, and included amongst those administrative reasons were failure to comply with all the terms of your probation. Because those are...they haven't committed another criminal offense. They've...so for purposes of that policy to try to reduce the number of revocations, you know, if you were going to revoke someone's probation for failure of a UA, then that UA would become a matter of public record during the revocation hearing, right? [LB1009]

ELLEN FABIAN BROKOFISKY: Correct. [LB1009]

SENATOR COUNCIL: Now if, going along the lines of community corrections, where you're trying to reduce revocations and do administrative sanctions... [LB1009]

ELLEN FABIAN BROKOFISKY: Yes. [LB1009]

SENATOR COUNCIL: ...that's where the Probation Department's preference would be not to release the...be required to release the UAs because of the potential impact on

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moving that probationer along the rehabilitative (inaudible). [LB1009]

ELLEN FABIAN BROKOFISKY: Correct, but a couple of pieces of information. [LB1009]

SENATOR COUNCIL: Okay. [LB1009]

ELLEN FABIAN BROKOFISKY: In the Community Corrections Act the Legislature passed in 2003, they did allow the Probation office to administer sanctions, and for a substance abuse violation just as you said. However, we are bound by law to advise the county attorney of every violation of the probation order. So in the event that we choose to or want to sanction an individual, the county attorney still has the option of saying, no, sorry. [LB1009]

SENATOR COUNCIL: Okay. So... [LB1009]

ELLEN FABIAN BROKOFISKY: We're going to file a revocation on this. So we have to justify to the county attorney why we'd like to do the sanction, and it is almost always because this individual is really doing well and this has been a slip. [LB1009]

SENATOR COUNCIL: So once you advise the county attorney that the violation is failure of a UA, the county attorney has that information. [LB1009]

ELLEN FABIAN BROKOFISKY: Yes. [LB1009]

SENATOR COUNCIL: Does the Public Records Law prohibit the county attorneys from disclosing a UA failure? [LB1009]

ELLEN FABIAN BROKOFISKY: I don't believe it does. I'm not an attorney, but... [LB1009]

SENATOR COUNCIL: Okay. I didn't mean to put you on the spot, but it... [LB1009]

ELLEN FABIAN BROKOFISKY: I hope it does. [LB1009]

SENATOR COUNCIL: Okay. Thank you. [LB1009]

SENATOR ASHFORD: Thanks, Ellen. [LB1009]

ELLEN FABIAN BROKOFISKY: Thank you very much. [LB1009]

SENATOR ASHFORD: Korby, are you neutral or...neutral. Any opponents? Neutral. [LB1009]

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KORBY GILBERTSON: Good afternoon, Chairman Ashford, members of the committee. For the record, my name is Korby Gilbertson; it's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of Media of Nebraska, Incorporated. Media of Nebraska is a group of both print and broadcast media that not only looks out for the interests of the press but also looks out for overall interest to public records, open meetings, First Amendment rights. Our primary concern with this legislation is that the way that the bill was drafted we had some concerns that even if a document was admitted in court it could still be considered not accessible as a public record. I was just given a copy of their proposed amendment. My guess is we would still have an issue with it. Our main goal it to keep things the way they are. If something is disclosed in either a public meeting or in court, it then becomes a public record. And that's our position on the bill. I will send this back to my clients and see if they agree with it. But LB...or AM1829, I think you all have, was language that we had suggested. [LB1009]

SENATOR ASHFORD: Thanks, Korby. Any questions of Korby? Seeing none, thanks. [LB1009]

KORBY GILBERTSON: Thank you. [LB1009]

SENATOR ASHFORD: (See also Exhibit 8) And I waive closing. [LB1009]