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Transcriber's Office

Floor Debate  
January 25, 2011

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SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fourteenth day of the One Hundred Second Legislature, First Session. Our chaplain for today is Father Brendan Kelly of Blessed Sacrament Church here in Lincoln, Nebraska, Senator Coash's district. Please rise.

FATHER KELLY: (Prayer offered.)

SENATOR GLOOR: Thank you, Father Kelly. I call to order the fourteenth day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections, Mr. President.

SENATOR GLOOR: Thank you. Are there any messages, reports, or announcements?

CLERK: Mr. President, a Reference report referring certain gubernatorial appointee for a confirmation hearing as well as a rereferral of two pieces of legislation; that's signed by Senator Wightman as Chair. Enrollment and Review reports LB1, LB2, LB3, LB4, LB5, LB6, LB7, LB8, LB9, LB10, and LB11 as correctly engrossed. Notice of hearings from the Banking, Commerce and Insurance Committee and the Judiciary Committee, those signed by their respective Chairs. And Senator Utter would like to offer LR60, Mr. President; that will be laid over at this time. And that's all that I have. (Legislative Journal pages 351-353.) [LB1 LB2 LB3 LB4 LB5 LB6 LB7 LB8 LB9 LB10 LB11 LR60]

SENATOR GLOOR: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda, Mr. Clerk, confirmation reports.

CLERK: Mr. President, the Committee on Natural Resources, chaired by Senator Langemeier, reports on the appointment of Mark Graham to the Nebraska Power Review Board. (Legislative Journal page 325.)

SENATOR GLOOR: Senator Langemeier, you are recognized to open on the confirmation report.

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SENATOR LANGEMEIER: Mr. President and members of the body, it's my pleasure to offer before the body today an appointment of Mr. Mark Graham to the Nebraska Power Review Board. Mr. Graham is a reappointment to a five-member board, and he is the layperson to represent the board. He was sent out of committee unanimously. He is born and raised in Lincoln, Nebraska; he's currently a business owner here in Nebraska and has done a great job in his previous appointment to the Nebraska Power Review Board. We would ask for your adoption of Mr. Mark Graham. Thank you.

SENATOR GLOOR: Thank you, Senator Langemeier. Senator Fulton, you are recognized.

SENATOR FULTON: Thank you, Mr. President. I promise the body I won't do this every day, but this happens to be a constituent of mine. Mr. Graham has had an interest in the power-generation sector for some time; he does a very good job. He's a thorough businessman. He lives just down the street from me; he's a constituent. And I heartily support this confirmation. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Senator Fulton. Seeing no other senators wishing to speak, Senator Langemeier, you are recognized to close on the report. Senator Langemeier waives. The question is the adoption of the report offered by the Natural Resources Committee. All those in favor vote aye; all those opposed, nay. Have you all voted? Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 353-354.) 33 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR GLOOR: The report is adopted.

CLERK: Mr. President, a second confirmation report from the Natural Resources Committee involves the appointment of Thomas Knutson to the Natural Resources Commission. (Legislative Journal page 326.)

SENATOR GLOOR: Senator Langemeier, you are recognized to open on the confirmation report.

SENATOR LANGEMEIER: Mr. President and members of the body, it is my honor to bring to you Mr. Tom Knutson that has been appointed by the Governor to the Nebraska Resource Commission; he is a new member appointed. He has a long history in surface water in the state of Nebraska and has been appointed to fill that position as a surface water representative on the commission. And with that, I would ask for your adoption of Mr. Tom Knutson. Thank you.

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SENATOR GLOOR: Thank you, Senator Langemeier. Seeing no senators wishing to speak, Senator Langemeier, you are recognized to close. Senator Langemeier waives. The question is the adoption of the confirmation report offered by the Natural Resources Committee. All those in favor vote aye; all those opposed, nay. Have you all voted? Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 354.) 34 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR GLOOR: The report is adopted. We move on to the next agenda item, Mr. Clerk.

CLERK: Mr. President, Senator Krist would move to withdraw LB285. [LB285]

SENATOR GLOOR: Senator Krist, you are recognized. [LB285]

SENATOR KRIST: Thank you, Mr. President. Members of the body, good morning. LB285 is a bill that I introduced on behalf of the Nebraska Veterans of Foreign Wars. As you know, veterans issues are very important to me. Interestingly enough, the Nebraska VFW State Adjutant and Quartermaster John Liebsack is also one of my constituents--I'm not sure of his spelling capability, but he is one of my constituents. The intent of LB285 is twofold. It expands the application process for those wanting to enter a Nebraska veterans home, allowing a veteran an option of applying for entry either at the home or through the existing application process through their county veterans service officer. LB285 also expands access to the Nebraska Veterans' Aid Fund to needy veterans. Both measures were unanimously supported at the time by the Nebraska VFW this summer and subsequently brought to me for this body's consideration. Last week I received a letter, which you have a copy of, and I don't think I need to go into great detail; you can read for yourself. It was decided that they would want me to pull the bill. Support has broken down mainly because of another bill that has been introduced. It would be difficult to disapprove the expansion of the Nebraska Veterans' Aid Fund because of another and not (sic) support expansion of Nebraska's aid fund with LB285. I concur with their conclusion and respectfully ask for your support of this motion to withdraw LB285 at this time. [LB285]

SENATOR GLOOR: Thank you, Senator Krist. Are there senators wishing to be recognized? Seeing none, Senator Krist, you're recognized to close on the withdrawal of LB285. Senator Krist waives. The question is, shall LB285 be withdrawn? All those in favor vote aye; all those opposed vote nay. Have you all voted? Mr. Clerk. [LB285]

CLERK: 40 ayes, 0 nays, Mr. President, on the motion to withdraw the bill. [LB285]

SENATOR GLOOR: LB285 is withdrawn. Next agenda item, Mr. Clerk. [LB285]

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CLERK: Mr. President, General File. Senator Fischer's LB170. (Read title.) The bill was introduced in January, referred to Transportation, advanced to General File, discussed yesterday. At that time, Mr. President, Senator Heidemann had an amendment drafted and adopted to the bill. When the Legislature left the issue, Senator Langemeier had pending FA2 as an amendment to the bill. (Legislative Journal page 343.) [LB170]

SENATOR GLOOR: Senator Fischer, would you like to refresh us on LB170? [LB170]

SENATOR FISCHER: Thank you, Mr. President and members of the body. Just a short recap of the bill. I'm sure most of you remember it from our discussion yesterday. The bill does eliminate the state subsidies for new motorcycle training courses for schools and for the instructors. It ends the diversion of funds from the Highway Trust Fund and the Motor Vehicle Cash Fund to the Motorcycle Safety Education Fund and used to pay for the state subsidies. And it updates the statutory requirements for motorcycle safety classes and certification of motorcycle safety training instructors and strengthens the rules and regulations governing motorcycle safety training courses. Thank you, Mr. President. [LB170]

SENATOR GLOOR: Thank you, Senator Fischer. Senator Langemeier, would you like to refresh us on FA2? [LB170]

SENATOR LANGEMEIER: Mr. President, members of the body, thank you. FA2 is simply taking the amount of time this class certificate is available to be used, to then take it and get your license. Currently, the law says that you have 48 months; the bill itself drops that down to 12 months. And my argument is, is I'm not sure that 12 months is enough time in the state of Nebraska, and with FA2, we would amend that to two years, or 24 months, to allow it available for two years. Thank you. [LB170]

SENATOR GLOOR: Thank you, Senator Langemeier. Are there any senators who wish to be recognized? Seeing none, the question...Senator Lathrop, you are recognized. [LB170]

SENATOR LATHROP: Thank you, Mr. President. And, colleagues, good morning. Mr. President, are we on Amendment 2? [LB170]

SENATOR GLOOR: Yes, we are. [LB170]

SENATOR LATHROP: This morning I wanted to stand up and address my concerns about this bill one more time. And I don't intend to talk about it all morning, but I do want to express my concern and suggest that you may hear more from me when we get to Select File. I'll list my concerns for you. Last night my LA did a little bit of background check--a little bit of work on the history of this fund. And I'm going to tell you that what it

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looks like to me when I look at the history is we have been increasing the fees on motorcyclists to fund this fund. And now we want to eliminate the subsidy without giving the money back or reducing the fees on the motorcyclists. I will admit that I've looked at the history--I have a copy of it here--and that seems to be the case. I would like to look at it more closely before I make a decision about where to be on this bill. I also have a concern about the fact that we--this is not the only highway funding bill we're going to see this year; we're going to have a bill to take some fixed amount of sales tax. And I have some concern about making a change to the way we do highway funding and send this kind of money over to the Highway Trust Fund at this point in time and when we are worried about how we're going to make ends meet with our budget. I have some concerns about whether this bill shouldn't be taken up--perhaps bracketed to a point in time when we are near the appropriations process, so that the money that we're talking about, \$790,000, can be in play as we work through the budget. And finally, I have a concern about the annual return of the helmet repeal bill and this state moving to a place where we are repealing the helmet bill and taking away a subsidy for motorcycle training. That is the wrong direction to go by this body. I think it's the wrong direction to go, frankly, by the Transportation Committee, which ought to concern itself with highway safety, the number of motorcyclists that are killed and brain-injured every year. And I think the annual attempt to repeal the helmet bill and taking away the subsidy for motorcycle safety training is the wrong direction to go in. I told you that this would be my last time to speak; my intention would be to not vote on this...I'll vote yes on the amendment but not on the bill and then probably speak with Senator Fischer before Select File. Thank you. [LB170]

SENATOR GLOOR: Thank you, Senator Lathrop. Senator Langemeier, you're recognized to close on your amendment. [LB170]

SENATOR LANGEMEIER: Mr. President, members of the body, again, FA2 keeps these classes available for two years instead of the one year in the bill, and I would ask for your adoption of FA2. Thank you. [LB170]

SENATOR GLOOR: Thank you, Senator Langemeier. The question is, shall the amendment to LB170 be adopted? All those in favor say aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB170]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Langemeier's amendment. [LB170]

SENATOR GLOOR: The amendment is adopted. [LB170]

CLERK: I have nothing further on the bill at this time, Mr. President. [LB170]

SENATOR GLOOR: Is there any further discussion on LB170? Senator Haar, you are

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recognized. [LB170]

SENATOR HAAR: Mr. President, I would (microphone malfunction). I, too, have some of the same concerns that Senator Lathrop expressed. And I would still, before Select File, like to get...I mean, motorcyclists are now charged an extra \$5. And we need to see if that's actually a tax or a fee. If that extra \$5 can be justified, then I think we can say it's a fee. And if it can't be, then it's a tax. And I think that's an important distinction we're going to have to make as we go through various programs. Probably in the future we're going to be putting more and more fees out there for people to actually pay for the service they get. And I was just trying to recall, when I got my motorcycle license way back, I think the extra driving I had to do was the tester or the person at Motor Vehicles stood on the curb at the testing station, had me drive around the parking lot and do a few maneuvers. And that was the only extra work involved with getting that license. And so I'd like to see, again, if the five extra dollars that we're providing is actually a fair fee for that service or whether it's a tax to motorcyclists. I think Senator Fischer has made a good argument in terms of if no other safety program like this is subsidized, that we need to look at the subsidy. But I want to see if this is a fair \$5 that motorcyclists have to pay on top of their license fee. Thank you very much. [LB170]

SENATOR GLOOR: Thank you, Senator Haar. Seeing no further senators wishing to be recognized, Senator Fischer, you are recognized to close on the advancement of LB170. [LB170]

SENATOR FISCHER: Thank you, Mr. President and members of the body. I do appreciate your support on this bill. I was in support of the two amendments that were adopted to the bill; I think they made sense. I think we need to move it forward. This bill is the first one that we have some hard decisions to make. We need to decide what is a function of government. The state of Nebraska does not mandate any driver training program. Yet in this case, we are subsidizing a program. That's a policy decision. I happen to believe that that subsidy needs to go away. I don't think it's right that we subsidize a program that is not required by the state of Nebraska. As I said, this is just the first of many tough decisions we're going to have to make. We all know that cuts are going to have to be made; we all know that hard decisions will be made; we have to decide what are the duties of government. And I think it's fairly clear that if government does not require a program, we certainly should not be subsidizing it. With that, I would ask you to advance LB170. Thank you, Mr. President. [LB170]

SENATOR GLOOR: Thank you, Senator Fischer. The question is the advancement of LB170 to E&R Initial. All those in favor vote aye; all those opposed, nay. Have you all voted? Record, Mr. Clerk. [LB170]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB170. [LB170]

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SENATOR GLOOR: LB170 advances. Mr. Clerk, we will proceed to General File, LB19. [LB170 LB19]

CLERK: Mr. President, LB19 is a bill by Senator McCoy. (Read title.) Introduced on January 6 of this year, referred to the Judiciary Committee. The bill was advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB19]

SENATOR GLOOR: Senator McCoy, you're recognized to open on LB19. [LB19]

SENATOR McCOY: Thank you, Mr. President, members of the body, and good morning. I'm pleased to introduce LB19, which amends the Uniform Controlled Substances Act to include the class of synthetic cannabinoids used to make the drug commonly known as K2 or Spice. And there are eight classes in LB19. For those of you on the Judiciary Committee, I want to thank you for your interest and your time on this issue. And thanks also to Senator Ashford and the staff as well. Also thanks to the Attorney General's Office and their very capable staff working on this issue along with my staff as well. For those of you in the hearing last week, you heard the testimony of a 16-year-old young man from Sidney, Nebraska, who last fall smoked what he thought was marijuana--turned out to be synthetic marijuana, or K2--got behind the wheel of his pickup and in a very mixed state, hallucinations and whatnot, drove 17 blocks across the town of Sidney, almost hit a small child in a crossing zone of an elementary school, and ended up shaving the bay window off of a home. And his pickup finally stopped 30 feet from a propane railway car. He walked away from this accident untouched other than a few scratches. Thankfully, no one was injured. That young man, along with his mother, testified last week in the hearing and, to me, really brought home just how important this legislation is to protect our young people in Nebraska. K2 and all its derivatives are incredibly dangerous, not only to the folks who smoke them but, as just in the case of the young man from Sidney, to anyone around them who might come in contact with them if they get behind the wheel of a car. Quite a number, almost a dozen states across the country have banned K2 in some form or fashion in the last few years. What's different about what they did and what we propose to do in this legislation is they banned K2 by specific chemical compound. We seek to go about it in the form of chemical classes. I don't pretend to be a chemist. Thankfully, we had some great testimony, as many of you remember, on the Judiciary Committee last week from those who are very, very qualified in the scientific field. But it's been discovered that there are potentially eight chemical classes and over 700 chemical compounds that could be contrived in some way to create K2 or a derivative and are extremely dangerous. Thankfully, we vetted this through our very capable university, for research purposes, just to make sure that by going about this ban in the way that we are, we aren't...the unintended consequence of harming valuable research in some way. You'll see from handouts that are going around just some more detailed information on these chemical compounds. Many of our bordering states, including Kansas, Missouri, and Iowa, have addressed K2, either through legislation, by executive order, or their state pharmacy

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boards. I made a commitment last year about this time--a little later in the year but about the first part of March of last year--made a commitment to Senator Ashford that I would do everything I could to put together a piece of legislation to address this issue for this session. At the time it was too late to do anything about it last session. I greatly appreciate, as I said earlier, the help that Senator Ashford has been on this issue. We've worked very, very hard to put together what we believe to be a groundbreaking piece of legislation, that perhaps even the DEA--the drug enforcement agency--nationally may look at what we're doing and roll this out across the country. We talk about a lot of things here in the Legislature and they all are important in some way, form or fashion. But probably in my short time so far in the Legislature, I don't know that we've been involved yet in an issue that I've cared this much about or realized had this much of an impact on our young people, our children, and potentially anyone across the state that might come in contact with someone who smokes such products. As many of you may know, the DEA a few months ago instituted a ban on five specific chemical compounds. And that's great. But the other handout that you'll see in front of you is from a K2 manufacturer, and it very clearly states that they've found an immediate way around the DEA ban on those five specific chemical compounds. Going back to the first handout that you received, you'll find that when a toxicology report was performed on this product that supposedly gets around the DEA ban, it's a chemical class and a specific chemical compound that would be banned under our legislation and would further protect Nebraskans. And with that, thank you, Mr. President. [LB19]

SENATOR GLOOR: Thank you, Senator McCoy. (Doctor of the day introduced.) Senators wishing to be heard on this topic are Lautenbaugh, Ashford, Karpisek, Price, Wallman, and Dubas. Senator Lautenbaugh, you are recognized. [LB19]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I just wanted to rise briefly and thank Senator McCoy for bringing this. This was one of those hearings that was very eye-opening, and the testimony was very compelling. This is a particularly insidious type of drug we're dealing with here, in that it has been billed as a legal marijuana substitute. But that's not the whole story. The effects of this drug appear to be very unpredictable--some type of psychedelic response, almost, in some of the circumstances--but it's unpredictable and very, very dangerous for the youths who have taken it so far. We heard, as I said, very compelling testimony in committee about the importance of banning this. There was no opposition testimony; no one showed up to try to defend this product or any form of it. And I believe this bill was very cleverly drafted, because one of the concerns we discussed in committee was that--well, will they just tweak the formula a little bit so we'll have to come back next year and ban the next thing? But by banning the classes rather than specific compounds, I think we're avoiding that to the extent possible. It's likely we'll always be playing catch-up in this area and trying to deal with the newest threat that comes along annually probably. But I think this bill does what needs to be done currently, with what we know now, and it does it in such a way to minimize our need to revisit this. I again thank Senator McCoy for bringing this.

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And I would yield my time to him. [LB19]

SENATOR GLOOR: Senator McCoy, you have 3 minutes 25 seconds. [LB19]

SENATOR McCOY: Thank you, Mr. President. Thank you, Senator Lautenbaugh. Senator Lautenbaugh brings up a great point. One of the immediate things that we realized as we started to investigate this issue was that many of the states that previously have instituted K2 bans have had to do exactly what Senator Lautenbaugh just talked about and that is come back time after time to tweak their ban to encompass enterprising folks who created something that did an end run around the ban. We really believe we've addressed that issue; we put a tremendous amount of time into "efforting" what all needed to be done to, hopefully, make sure that never happens. That was our goal going into this, and I believe we've achieved that goal of ever having, hopefully, to come back and deal with this again. Thank you, Mr. President. [LB19]

SENATOR GLOOR: Thank you, Senator McCoy. Senator Ashford, you are recognized. [LB19]

SENATOR ASHFORD: Thank you, Mr. President. And I, too, would like to thank Senator McCoy and his staff for reacting quickly to this issue last year. Since we had our discussion...Senator McCoy and I talked about this last spring, and I've had occasion to talk to numbers of students about this issue--high school, middle school, high school students. And we had testify at the hearing a woman who had...was a resource officer for a number of years at the Lincoln, I think it was at Lincoln Southwest High School. And it is absolutely clear to me that this drug--which, as Senator McCoy correctly states, looks like marijuana but is sprayed with a synthetic product which enhances its impact on children and young people or anybody who takes it--but it appears as if it is becoming prevalent, ubiquitous, whatever the word is, in our schools. Young people react in different ways, obviously, as they do to all these types of Schedule I drugs. And I--we all are aware of Schedule I drugs and the other ones that we've listed, like cocaine and meth, other--heroin, other kinds of drugs that we know can have a disastrous effect on young people. This particular synthetic appears to have an immediate disorienting impact on a young person. The Sidney case is alarming, certainly. With a 16-year-old basketball player, golfer, football player thinks he's taking marijuana, because it looks like marijuana, and drives a car several blocks and almost takes out a group of students and, as Senator McCoy rightly says...suggests, did not do harm to himself or others but could have done. We have elected in this bill to make this a Schedule I drug. We've elected to, for possession, utilize the penalties that we utilize for marijuana--an infraction for the first offense. And then as the offenses increase in number, we get into the misdemeanor category. It's the delivery, however, that is the real culprit here. And we take it seriously in making the determination that delivery of K2 or the other chemical complex, the compounds that Senator McCoy talked about and are listed and are defined in the bill that can be used in conjunction with--in different

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ways in conjunction with K2--is a felony. We think it should be a felony. In the Judiciary Committee, we go through this process. Every time someone brings us a bill about a behavior that is impacting citizens in our state, we need to make the determination: Is this a felony type of offense? Does it rise to that level, which in many cases results in incarceration? And one of the major functions of the Judiciary Committee is in making that cut, to decide: Is this the kind of offense that should be a misdemeanor, or is it the kind of offense that should be graded as a felony, which in many cases does result in jail time? And in this case... [LB19]

SENATOR GLOOR: One minute. [LB19]

SENATOR ASHFORD: ...in this particular case, I believe, and the committee, I believe, felt that Senator McCoy had clearly met his burden in suggesting to us and to this Legislature that in this particular case, when we're dealing with such potential harm to our children, that delivery to a young person of K2 is worthy of a felony. And with that, Mr. President, I certainly rise in support of LB19. [LB19]

SENATOR GLOOR: Thank you, Senator Ashford. Senator Karpisek, you are recognized. [LB19]

SENATOR KARPISEK: Thank you, Mr. President. I, too, would like to rise in support of LB19. I was having my staff start to draw up probably not the exact same legislation but something dealing with K2, when my staff called and saw that Senator McCoy was carrying something very similar. So he beat me to the punch, and good for him; I'm sure that he's getting some of the e-mails that I normally get. I did increase the marijuana laws a couple years ago, and so we are falling under some of those laws now, which I appreciate. I do think that we are going the right direction here and put some real teeth in this bill. And I appreciate that, and I like to see that. I'm sure there's going to be other things that come along, and this body will have to stand up and take a stand on more things coming down the line, but I give kudos to Senator McCoy to bring this forward and stand up and do the right thing. Thank you, Mr. President. [LB19]

SENATOR GLOOR: Thank you, Senator Karpisek. Senator Price, you are recognized. [LB19]

SENATOR PRICE: Thank you, Mr. President, members of the body. I rise in strong support of Senator McCoy's actions. And the truth be known, one of the handouts you have there, with the "Chill" on it--I was sitting in a local smoke shop one day, and the owner came up to me with a package, and he handed it to me, and he said, hey--he knew who I was; he knew I worked here. And he said: What are you going to do about this? And it was amazing to have a package, not just of the product--but to have a product declare: We have found a way to work around the K2 issue. This is a prevalent problem we're having, trying to stay up to speed with what people would do, with no

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concern for the impact to our children and our members of our society. And this is the charge that we have, and I really appreciate that Senator McCoy, the Judiciary Committee, and members have seen fit to move forward in a bold manner to ensure we're not going to change a covalent bonding and have it a new drug, or add a different molecule here or there and it's something completely different and it skirts the law. We're saying the whole class of drugs used and the materials used are now not going to be allowed nor tolerated, because they're not used for anything in our society; they're not used for benefit. And if they were and there was something, I believe Senator McCoy was saying, that had to do with studies--the university came in and they can make an application for using it. They've thought of the different things; they're not limiting anything. But what's important here is...you know, there's a big use of the hookah pipe out there by our young people, and they think it's so quaint and so endearing to use the hookah pipe: Aren't we so cool? And, guess what, Mom and Dad, I can get this stuff to put inside that pipe that's completely legal. And this is what we need to be able to do--we need to equip all of our families in our state with a way to say: You're not going to get ahead by just making a little change--and saying: Mom and Dad, I wasn't running; I was skipping. That's what we're doing here. And I appreciate what Senator McCoy has done. Thank you. Thank you, Mr. President. [LB19]

SENATOR GLOOR: Thank you, Senator Price. Senator Wallman, you are recognized. [LB19]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I, too, want to thank Senator McCoy. Would Senator McCoy answer to a question? [LB19]

SENATOR GLOOR: Senator McCoy, would you yield to a question? [LB19]

SENATOR McCOY: Yes, I would. [LB19]

SENATOR WALLMAN: Thank you, Senator McCoy. In regard to this bill, would there be a grace period for people to take this drug off the market, or is it immediate when the Governor signs it? [LB19]

SENATOR McCOY: It is immediate, Senator Wallman; it has an emergency clause attached to it. We really believe that this is a serious enough of a problem that it deserved and merited an emergency clause to take effect as soon as possible. Again, we would have tried to have done something last year had we been able to either create a piece of legislation then or find another legislative vehicle we could have attached this to. And that wasn't possible, so we believe this needed to take effect immediately. [LB19]

SENATOR WALLMAN: Thank you. And I urge support for this bill. Thank you, Mr. President. [LB19]

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SENATOR GLOOR: Thank you, Senator Wallman. The Chair recognizes Senator Dubas. [LB19]

SENATOR DUBAS: Thank you, Mr. President. Would Senator McCoy yield to some questions, please? [LB19]

SENATOR GLOOR: Senator McCoy, will you yield? [LB19]

SENATOR McCOY: I would. [LB19]

SENATOR DUBAS: First off, thank you, Senator McCoy, for bringing this bill. I couldn't agree with you more about just how urgent this is. I'm sure these things were talked about in committee, but I think it's just critical that we continue to make these points every opportunity we get. So are there any regulations that involve these various drugs that you've listed in your bill? [LB19]

SENATOR McCOY: Do you mind explaining maybe a little bit further about what...I assume maybe you mean current regulations... [LB19]

SENATOR DUBAS: Correct. [LB19]

SENATOR McCOY: ...against it? [LB19]

SENATOR DUBAS: Correct. [LB19]

SENATOR McCOY: There are. In particular the five specific chemical compounds that the DEA has put a one-year ban on--calendar year of 2011--yes. [LB19]

SENATOR DUBAS: Okay. Currently there are no age limits? I mean, any young person can walk in off the street and purchase these different drugs--I guess that's what I'm going to call them; they're drugs. [LB19]

SENATOR McCOY: As long as they are 18. [LB19]

SENATOR DUBAS: Eighteen, okay. [LB19]

SENATOR McCOY: Um-hum. [LB19]

SENATOR DUBAS: So--all right. So there is an age limit. [LB19]

SENATOR McCOY: It's my understanding, yeah. [LB19]

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SENATOR DUBAS: Are there any posted warnings in any of these businesses that sell these? [LB19]

SENATOR McCOY: Not that I am aware of--now, there may be. Clearly on the handout you can see it's marked "not for human consumption." [LB19]

SENATOR DUBAS: Right. [LB19]

SENATOR McCOY: So I think the individual products may have some sorts of warnings on them. But to my knowledge, no, not a posted warning. There may be some shop that I'm not aware of. [LB19]

SENATOR DUBAS: Are you aware of any of the...you passed out this one advertisement--what type of advertising are they doing? And how are they framing this drug to sell to people? What are they saying it's good for? [LB19]

SENATOR McCOY: Well, it's usually marketed as incense in some, way, form or fashion, which...but it's also clearly marked--and that's why I think this handout is fairly effective; you can tell it's clearly designed to get around the new DEA rules. And it's marketed usually as incense but clearly marked "not for human consumption." And usually, I think, signage or whatnot has just something along the lines of K2 or Black Magic. I mean, there's a ton of different names, derivatives. And I would assume those that want to smoke these products...and I might add, it's undetectable to drug screenings, which is one of the appealing factors about these products. And I'd be happy to address that more later if you'd like. [LB19]

SENATOR DUBAS: That's a very good point to make. So if I would walk into one of these stores, had not been made aware of this the way it's being used as a drug, I would just think that this is an incense that I could buy and burn in my house for the aroma, not for anything else? [LB19]

SENATOR McCOY: Well...and as the members of the Judiciary Committee will attest, we actually had a sample of it that was passed around in the hearing. It smells very nice. In fact, it looks, smells like potpourri until it is burned. And it has the psychotropic drugs, chemicals that are sprayed on it. [LB19]

SENATOR DUBAS: Again, I really do appreciate you bringing this forward to us. I was watching a TV program here about a month ago, and there was--they had a family, two young men. They were talking about using some form of this--I'm not exactly sure what it was they were using. But they just kept talking about, well, it's not illegal; this is perfectly legal; we aren't breaking any laws. They said this is nothing like marijuana--it doesn't do anything to us like marijuana. But as the questions were continued to ask of these young men and they talked about how their behaviors change, they just simply

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said: Well, it just makes us mellow; it just helps us relax; it helps us relieve stress. But they continued to go back to talking about--but it's not illegal; there's nothing illegal about this--so therefore it can't be harmful. That's how they justified it in their mind,... [LB19]

SENATOR GLOOR: One minute. [LB19]

SENATOR DUBAS: ...the fact that it was legal, it wasn't harmful. And the parents who were on this program too were struggling with, how do we get through to our kids that just because it's legal doesn't mean that it is not harmful--and trying to convince their kids as to what it was doing. I just...the challenges we face as parents and grandparents now just to try to stay even with what's going on--let alone to try to stay ahead--and to run interference to protect our children becomes more and more of a challenge all the time. And so I appreciate your approach to this bill and how you've made it a comprehensive approach. And I certainly hope we will be able to advance this without any challenges. It couldn't be more critical. Thank you again, Senator McCoy. [LB19]

SENATOR GLOOR: Thank you, Senator Dubas. Senator McGill, you're recognized. [LB19]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I, of course, rise in support of LB19. It was a very compelling hearing. I rise mainly to give a shout-out to Zach, who came and testified before us all the way from Sidney. His testimony really helped us understand what the impact is on a person's psychology. But more important than that, I was impressed by the fact that he was there in the first place and had the courage to come and share his story with him. We need more young people like him, who are willing to stand up, admit to their mistakes, and then make a change, not only in themselves but to try to impact their community. So I just wanted to give a kudos to Zach. He turned a mistake into something very admirable, and I wish that we could see more of that. I think we'd have less problems like this if we had more people like Zach. Thank you, Mr. President. [LB19]

SENATOR GLOOR: Thank you, Senator McGill. Chair recognizes Senator Louden. [LB19]

SENATOR LOUDEN: Thank you, Mr. President and members. Would Senator McCoy yield for questions, please? [LB19]

SENATOR GLOOR: Senator McCoy, will you yield to a question? [LB19]

SENATOR MCCOY: Yes. [LB19]

SENATOR LOUDEN: Senator McCoy, as I look this bill over, there's...I'm not familiar

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with some of these compounds, but I have noticed that on your--the one handout that you had: the fragmentation pattern or the molecular composition, on the back of this handout. And it was carbon, 80 percent; hydrogen, 6 percent; fluorine, 5 percent; nitrogen, 3 percent; and oxygen, 4 percent. Now are we legislating against this as mixed up in a compound, such as you have a summary of your compounds, which is your--some of the naphtha compounds that you have in here? Is that what this bill is all about, is to list these compounds and legislate against these certain compounds? [LB19]

SENATOR McCOY: You know, I appreciate that question, Senator Louden. And the answer is both, in short. The specific compound that you're talking about is, again, a toxicology report--or a toxicity report, I guess it should be more correctly state--on the Chill, which is the product that--the flier that was handed out. So the answer, the short answer, is we're going after the specific chemical compound that you refer to but, in addition to that, the chemical class as well--in fact, eight classes which encompass over 700 chemical compounds. [LB19]

SENATOR LOUDEN: In that class. Now what all does that...when you get into the naphtha and some of them, now--you're talking about airplane glue and some of that stuff like that--where does some of that fit in to these compounds that you're listing here? [LB19]

SENATOR McCOY: It would be specifically in different chemical classes--the eight specific chemical classes that we're seeking to ban. As we vetted this through, the university, at the UNMC--for research purposes and otherwise--have found that to the best of anyone's knowledge, these eight chemical classes aren't used for any commercial or research or otherwise purpose, other than to create K2 or some derivative of it. [LB19]

SENATOR LOUDEN: Okay. And then, if I understand this right, then you're working at a compound that would require to have fluorine in it, because as far as the compound you mentioned here in this handout, that would probably be the only thing that's somewhat dangerous in that whole compound you mention, is the fluorine that's mixed up in that compound, is that right? [LB19]

SENATOR McCOY: That may be, Senator Louden. I don't know that I can specifically talk to the fluorine component of that. We had some very capable testifiers in the hearing last week, including a scientist that deals in this issue of chemistry. I could certainly get back to you with some detailed information on that, but I believe that you would be correct. [LB19]

SENATOR LOUDEN: Okay. Then that's what we are, is passing legislation against this particular class of compounds. And that class can be narrowed down to what you're

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trying to do here and probably wouldn't include, oh, starter fluid or airplane glue and some of this other stuff. That's been checked out so it doesn't include some of those--that those would be illegal to manufacture. [LB19]

SENATOR McCOY: That would be very correct, yes. [LB19]

SENATOR LOUDEN: Okay, thank you, Senator McCoy. Thank you, Mr. President. [LB19]

SENATOR GLOOR: Thank you, Senator Louden. Senator Coash, you are recognized. [LB19]

SENATOR COASH: Thank you, Mr. President, and thank you, members of the body. I put my light on to get a couple things on the record that we've talked about, but if--just to ensure that we are clear as to the approach of this bill versus approaches we've seen with other things that we typically see in the Judiciary Committee. Typically, we look at where we put a drug on a schedule, okay. So we might put a drug on Schedule I or Schedule II or Schedule III or IV. And that will tell pharmacies, for example, what kind of access people can have to this, and it also helps the medical community understand what kind of prescriptions are required and things of that nature. But I would like to ask Senator McCoy a few questions just to get a couple of these things on the record. [LB19]

SENATOR GLOOR: Senator McCoy, will you yield to questions from Senator Coash? [LB19]

SENATOR McCOY: Yes, I will. [LB19]

SENATOR COASH: Okay, thank you, Senator McCoy. First question, Senator McCoy, could you go to page 17 of LB19. On page 17, line 21, what's the name of that drug? [LB19]

SENATOR McCOY: Well, as it's printed, it's pretty difficult to pronounce--about 40 letters. I could take a stab at it, but you'd probably do better than I, Senator Coash. [LB19]

SENATOR COASH: Okay. That's the longest drug that I could find in the whole bill. Just giving you a hard time. But there is a point to the approach that we took in the Judiciary Committee and the approach that you brought with your bill, Senator McCoy, which was to not look at a particular chemical but a particular class of chemicals. And that's different than what we see other states doing, is that correct, Senator McCoy? [LB19]

SENATOR McCOY: Absolutely. [LB19]

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SENATOR COASH: And you made a decision in your bill, and the committee agreed with you, that this approach was a smarter approach to try to stay ahead of manufacturers of these chemicals, because...maybe you can just take a moment to explain how makers of K2 are getting around particular state laws as it pertains to particular chemicals. [LB19]

SENATOR McCOY: I'd be happy to take a crack at that--and I don't want to use up too much of your time, Senator Coash, but you can certainly add, too, if you feel that I've forgotten something. But as it was outlined in the hearing, oftentimes the chemicals that are--the research-grade chemicals that are used to spray onto this potpourri--it could be anything, dried grass, doesn't matter what it is--come in the form of white powder. It's often created in labs in India or China--could be here in the United States, but oftentimes it's found in India or China. It's shipped over here, dissolved in acetone, and sprayed--could just be with a, just a hand-sprayer that we use for any, you know, form of household cleaners in our homes--sprayed onto any dried grass, agent, potpourri--has a nice smell to it--and then is activated once it's burned. So in and of itself, we're saying that that white powder, so to speak--that is what form this is most times found in--is going to be part of these--some form or fashion of these eight chemical classes. [LB19]

SENATOR COASH: Thank you, Senator McCoy. What are the chances, you think, we'll be back here in two years because some chemist somewhere abroad has found a way to create K2 outside of the parameters of LB19? [LB19]

SENATOR McCOY: Well, I would hope that the chances are very, very low. But, obviously, there are enterprising folks out there. [LB19]

SENATOR GLOOR: One minute, Senator. [LB19]

SENATOR McCOY: This is a \$100 million-a-year industry we're talking about here, folks--\$100 million a year. But we believe that this is the strongest ban that's been proposed anywhere in the United States. And, again, the hope is--and we know they're already looking at it--that the DEA will take what we're doing and employ it across the United States to break the back of this industry. [LB19]

SENATOR COASH: Thank you, Senator McCoy. I think that speaks well to this bill. I think it speaks well to this Legislature, that we've got a bill in front of us that will be looked at as a model by our federal government. Maybe we could get the federal government to look at our way of doing business here in Nebraska in a little bit more areas than just how we regulate dangerous drugs. Thank you, Mr. President. Thank you, Senator McCoy. [LB19]

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SENATOR GLOOR: Thank you, Senator Coash. Senator Harms, you are recognized. [LB19]

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator McCoy, would you yield just for a question? [LB19]

SENATOR GLOOR: Senator McCoy, would you yield? [LB19]

SENATOR McCOY: I will. [LB19]

SENATOR HARMS: Senator, first of all, thank you very much for introducing this. Where I live this is a big issue for us. And I'm sure throughout all of Nebraska it is a big issue. And unfortunately, a lot of our parents, grandparents don't understand how serious this really is. The question I have for you, Senator, is that as this progresses through the legislative process, do you have any concern or fear that people now know that we're going to move on this and--I'm assuming from all the discussion this is going to pass pretty rapidly--that people are going to go out and buy this thing by the barrelful? Is there any way we can freeze this stuff off in this great state before this is approved? [LB19]

SENATOR McCOY: I don't know specifically, Senator Harms, whether that's possible or not. But I do know, with an emergency clause attached and, hopefully, swift passage here in the Legislature and, hopefully, with the signing of this by our Governor, that we will get this addressed as quickly as possible. I'm sure that that is a possibility, the scenario that you describe. I hope that isn't the case. [LB19]

SENATOR HARMS: Yeah. I got a feeling that some of these teenagers that enjoy this sort of thing are going to see this coming and may very well go out and buy more than...I just have that concern, I guess. And if there's any way that we can speed this up and make it go through our system fairly rapid, I think we ought to do that, because I think that's exactly what's going to happen. Kids who are addicted to this are going to pursue that--they're innovative; they're creative in their own ways. And once you're hooked into this, as we all know--it's worse than anything I've seen in a long time. And I've had the opportunity to talk with law enforcement, particularly out where I live, particularly the highway patrol. And they say this is a big issue for us. And so I don't know, if there's anything we can do, I'd sure hope that we can, to move this forward as rapidly as possible or freeze it in some form or manner, because I can tell you what, these teenagers and other people--not just teenagers but adults who have gotten hooked into this--are going to move on this, and they're going to buy a lot of it and stockpile it. So, first of all, thank you very much for doing this. I appreciate it. Thank you, Mr. President. [LB19]

SENATOR GLOOR: Thank you, Senator Harms. Senator Schumacher, you are

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recognized. [LB19]

SENATOR SCHUMACHER: Thank you, Mr. President. Would Senator McCoy yield to a question? [LB19]

SENATOR GLOOR: Senator McCoy, will you yield to a question from Senator Schumacher? [LB19]

SENATOR McCOY: Yes, I will. [LB19]

SENATOR SCHUMACHER: Senator McCoy, in my past life I had the fortune of being a prosecutor, and some of this stuff has got to be read and proved in court. So in looking at this language, sometimes legislative history is helpful. This particular definition of this substance says it's "any material, compound, mixture, or preparation containing any detectable quantity of synthetically produced cannabinoids, their salts, isomers and salts of isomers, unless specifically excepted" somewhere else in this section. And then it goes on to list out these various categories. Is it the intent of this legislation to have the listing here of (a) through I think it's (h) be what is prohibited here or is this just a subset included in a much broader definition of anything that is synthetically produced cannabinoids? [LB19]

SENATOR McCOY: Would you mind, Senator, describing which page you're looking at, of the legislation? [LB19]

SENATOR SCHUMACHER: Oh, I'm... [LB19]

SENATOR McCOY: That would be helpful. [LB19]

SENATOR SCHUMACHER: ...oh, excuse me. I'm looking at the--I think it's right at page--bottom of page 10, where the definition--the insert starts and we start defining this thing as a Class I controlled substance. [LB19]

SENATOR McCOY: And I apologize. I didn't mean to break up your train of thought there with that. But, Senator Schumacher, I believe the correct answer to your question is "all encompassing," that it's to go after anything that has to do with synthetic cannabinoids. [LB19]

SENATOR SCHUMACHER: Okay. If that's the case...as I, you know, use this little toy called Google, it indicates that "synthetic cannabinoids encompass a variety of distinct chemical classes." And "the classical cannabinoids" are "structurally related to THC." Nonclassical including--and then it has, "aminoalkylindoles, 1,5-diarylpyrazoles"--hard time pronouncing this--"quinolines," "arylsulphonamides," as well as the "eicosanoids related to the endocannabinoids." I don't see any of these particular chemical classes

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listed. So are they excepted, or do these particular things have no other useful purpose? It seems to me we're getting into a lot...by taking this shotgun approach, which is clever, because anything out there may be it, as long as it's somehow a salt or an isomer. We also may be sweeping with a broad brush and making this overly broad and creating all kinds of arguments for defense attorneys. [LB19]

SENATOR McCOY: Well, the question that you have is a very good one, Senator. And the page that you describe, page 10 of the legislation, the subsets (a) through (h) there, that is what we're going after. So it's synthetic cannabinoids--but as outlined in (a) through (h) in the bill. [LB19]

SENATOR SCHUMACHER: So then perhaps should our definition be changed because this--when I read this, I don't see it that way. I see that any material or compound or any salt, unless specifically excepted somewhere in this section, is the bad stuff. And then it says, since it's hard to know what they're going to call these things, we know for sure these things are the bad stuff. So should we say instead that this (a) through (h) is the bad stuff and forget the all-encompassing first line? [LB19]

SENATOR McCOY: Well, I would be happy to take a closer look at that, Senator,... [LB19]

SENATOR GLOOR: One minute. [LB19]

SENATOR McCOY: ...if you feel there may be a change in that. This was fairly thoroughly vetted, not only through the Judiciary Committee but also through the Attorney General's Office and otherwise...and felt that the way it was outlined was not only specific but, hopefully, cleared up any ambiguity there. But I'd be happy in between, hopefully, General File and Select File to look into this if you would care to do so. [LB19]

SENATOR SCHUMACHER: Thank you, Senator McCoy. [LB19]

SENATOR GLOOR: Thank you, Senator Schumacher. Are there any other senators who wish to be heard on this subject? Seeing none, Senator McCoy, you're recognized to close on the advancement of LB19. [LB19]

SENATOR McCOY: Thank you, Mr. President, and thank you to the members this morning for some very thoughtful questions, and for that I'm grateful. I believe this to be an important topic, as it's been discussed. You know, a lot of folks asked some questions, including--and had comments--including Senator Karpisek. And I'd like to thank him for his work in this area of trying to do everything we can to keep drugs out of the hands of our young people. You know, we talked about the issues that Senator Ashford did, in our schools. You know, it's come out as we endeavored to research this

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issue that school districts, many school districts across the state right now, believe that K2 is the number one drug problem that they have in their schools today. So it's exciting to me to see us--what I hope to be an aggressive step to curb what, again, many of the schools believe to be their number one drug issue. This wasn't easy to get to this point, tremendous amount of hard work from a lot of folks. But it's exciting to me to see us be able to take a great first step in doing something that sometimes isn't as easy to do, and that is curb drug use among our young people. You know, it was talked about, and Senator Harms brought up a great point, that we hope that folks don't run out and purchase a lot of this. I'd hope that isn't the case. One thing that I neglected to mention when Senator Harms asked me a question was the cost of this: a 3-gram package that was passed around the Judiciary Committee costs usually somewhere around \$40. As it's been explained to me, that's essentially enough K2 material to produce six cigarettes. That's a lot of money. Hopefully, our young people don't have access to the resources to purchase large quantities of this. But we're going to change this. It is readily available, folks. If you don't believe that that's the case, look next time you stop and get gas somewhere or run into stores. It's available all over the place. You know, we've heard from a lot of kids. They smoke this because it's legal. We talk about that a lot here in the Legislature. We institute bans on certain things because, while it may not stop it, it's sure a whole lot easier to stop good kids, because they know, hey, it's illegal now. Well, hopefully, we've not only addressed that issue but gone beyond that. You know, I'd really like to conclude by talking about what I believe to be a seminal moment during this hearing, probably for me a seminal moment in my time in the Legislature thus far. And that was the testimony of a young man from Sidney and the exchange at the end of that between Senator Ashford, who's Chair of the committee, and the young man as he testified. You know, it was a powerful moment, because Senator Ashford in a candid, low-key way asked the young man, pleaded with the young man, to go back and talk to his friends and the kids that he knows about the dangers of this drug. You know, you wish every issue was that simple. It's not. But it sure would be nice if it was, because what you saw there was a family that loaded up their three boys, drove all the way from Sidney, spent two nights down here in Lincoln to make sure they could get around in that snowstorm last week to talk about this issue. You know, they care; they care about their kids. Beyond that, they care about my kids, your kids, your grandkids. Wouldn't it be nice if every issue was like that,... [LB19]

SENATOR GLOOR: One minute. [LB19]

SENATOR McCOY: ...that people owned up to their mistakes when they make them and work to correct them. That young man goes around and talks to school groups all the time about this issue. I know he has a bright future ahead of him. I'm certain of it. And for whatever good his situation and experience with K2 was, if it can change even one other kid's choices about whether or not to use this drug, then it was worth it, and it was worth it for him to talk to kids about it. So with that, thank you, Mr. President. And I'd ask for your vote to advance this. Thank you. [LB19]

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SENATOR GLOOR: Thank you, Senator McCoy. The question before the group is, shall LB19 advance to E&R Initial? Those in favor vote aye; those opposed, nay. Are there other senators wishing to vote? Record, Mr. Clerk. [LB19]

CLERK: 41 ayes, 0 nays, Mr. President, on the advancement of LB19. [LB19]

SENATOR GLOOR: The bill advances. Messages, Mr. Clerk. [LB19]

CLERK: Mr. President, a conflict of interest declaration by Senator Mello. Retirement Systems offers two confirmation hearing reports, those signed by Senator Nordquist as Chair. Hearing notices for Urban Affairs, Natural Resources, and from Health and Human Services. And, Mr. President, your Committee on Natural Resources, chaired by Senator Langemeier, reports LB28, LB29, and LB30 to General File. Judiciary, chaired by Senator Ashford, reports LB20 to General File with amendments. And Health and Human Services, chaired by Senator Campbell, reports LB46, LB68 to General File, LB111 to General File with amendments. All those signed by their respective Chairs. That's all that I have, Mr. President. (Legislative Journal pages 355-363.) [LB28 LB29 LB30 LB20 LB46 LB68 LB111]

SENATOR GLOOR: Thank you, Mr. Clerk. We continue with General File, LB122. [LB122]

CLERK: LB122 is a bill by Senator Harms. (Read title.) The bill was introduced on January 6 of this year, referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB122]

SENATOR GLOOR: Senator Harms, you're recognized to open on LB122. [LB122]

SENATOR HARMS: Thank you, Mr. President, colleagues. LB122 would simply add Jack G. McBride's name to the Terry M. Carpenter Educational Telecommunications Building at the University of Nebraska. I believe this honor is well...this honor is long overdue. Jack McBride was the founder of the educational television in Nebraska and was instrumental in making it so successful throughout the United States and the rest of the world. Jack McBride devoted his entire life to building one of the country's most premier educational broadcasting networks--not only in the United States but in the world. He also played a very significant role in the development of this type of programming throughout the world, in other countries--countries such as Indonesia, Nigeria, Tokyo, Philippines, Thailand, Malaysia, Singapore; and that list just goes on and on. Not only did he play a valuable role outside of our borders but within the United States; many states talked to Jack about creating the same kind of educational system and broadcasting program that he did here right in the great state of Nebraska. I've

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copied his resume for you. I'm not going to walk you through that resume. I can tell you that in all the years that I've been involved in studying and reading resumes--and that's been a long time--I've never seen a resume so complete. This man has accomplished more in a short period of time than many of us would. He has been innovative; he was creative; and, most important, Jack McBride had a vision, a vision that has led us to the kind of educational system and broadcasting system that we have today. He was a pioneer; he was a challenger; he moved people forward in regard to this process. Jack McBride was an outstanding man, and we're fortunate that he was in the state of Nebraska and he developed this in the state of Nebraska. So when you read his resume, you can see all of his accomplishments; it's phenomenal; I wished I had a resume like that; it would be exciting. I feel that this change brings honor to both Terry M. Carpenter and Jack McBride for their services to our state. I can also tell you that I had the fortunate opportunity to work at a short period of time with Senator Carpenter, when he was here and when I was a young administrator. And I can tell you that Senator Carpenter was a legend on this floor. I learned more from that man in just a short period of time about politics and how to pursue the issues that you want to accomplish. He was successful in securing the money for this building; Jack McBride was the man who actually put it all together. And I had the fortunate opportunity to also to work with Jack McBride, and I was so impressed with this man and what his visions were. I can tell you that I believe that this brings honor to both Terry M. Carpenter and Jack McBride by having their names together on the building. So I would ask you to--hopefully, you'll agree with me--I'd ask that you approve this request. Thank you, Mr. President. [LB122]

SENATOR GLOOR: Thank you, Senator Harms. The floor is now open for discussion. Senator Avery, you are recognized. [LB122]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. This bill, as Senator Harms indicated, came before the Government Committee. We did not have a lot of opposition to it. Some opposition was raised by some of the family members of former Senator Terry Carpenter. And the concern expressed was that this might diminish in some way Senator Carpenter's contribution to the establishment of the building and to NETV. The concern was that if there is a sharing of names on the building, that would diminish his significance. I would make the argument--and I did in Executive Session--that, in fact, the opposition might be true. These individuals, Terry Carpenter and Jack McBride, are giants in the establishment of NETV. By combining their names on the building, you actually elevate both of them to the level they deserve to be as pioneers in developing NETV. So the committee felt that this was an appropriate action to take, in particular because Jack McBride had 43 years of service to the University of Nebraska in the area of television and NETV; 33 of those 43 years were spent as the secretary and general manager. This...I guess one way to say it is that Terry Carpenter was responsible for getting the building built, and Jack McBride was responsible for building the programs within the building. This is a good bill. And I

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think that it will do service to both individuals, and I hope that you will agree. Thank you. [LB122]

SENATOR GLOOR: Thank you, Senator Avery. Senator Lautenbaugh, you are recognized. [LB122]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wonder if Senator Harms would yield to a question. [LB122]

SENATOR GLOOR: Senator Harms, would you yield? [LB122]

SENATOR HARMS: Yes, I would. [LB122]

SENATOR LAUTENBAUGH: Senator, Senator Avery touched on some of the concerns that I have, and I'll be very clear about it. One of the Carpenter family members is a constituent of mine, and there is a feeling that's been expressed out there that by adding another name to this building honoring Senator Carpenter we are somehow taking away from the honor that was originally afforded to Senator Carpenter in naming this building after him. Were there other facilities or things considered that could have honored Mr. McBride instead of this building? [LB122]

SENATOR HARMS: Not that I know of. I think that the role that this man played in the creation of the broadcasting and NET and telecommunications--this is the most fitting thing to do. And as I said, Senator, I knew both of these gentlemen, and I don't believe in any way or form that Senator Terry Carpenter would object to this. They worked, both, together to get the money for this building. They also worked together in getting foundation dollars established for this. It was a joint effort. And this...what I'm trying to get--so that people can actually see the role that Jack McBride played. And there might be other buildings, but I don't think any one that would be so fitting as this, because this is where the man spent his life; this is what he did. And not only that, Senator, when you just look at his resume, I mean, it's just--to me, it's just--it's exciting to see that we have that kind of leadership in this country, in this state, right here in Lincoln, Nebraska. So I wouldn't do anything...to be very honest with you, if I thought for one minute that I would bring any doubt or harm to the names of these two gentlemen, I would pull this bill right now. But I just don't believe that's true. [LB122]

SENATOR LAUTENBAUGH: Thank you, Senator Harms. And I'll be honest, I did not know--do not know either gentleman, did not know Senator Carpenter, never had the pleasure of meeting Mr. McBride. And his resume is certainly impressive; that's something I can't deny. I did just want to give voice to that concern. And if you had told me a week ago I'd even be speaking on this bill, I wouldn't have believed you; and yet here I am asking the question and, again, giving voice to the concern as it was brought to me. I don't know how I feel about that; I was distressed to hear from the Carpenter

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family. And I just don't know where to go with this, but I appreciate your responses and the thoughtful consideration you've given to this. [LB122]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Senator Karpisek. [LB122]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I thought that I should rise; I was the lone no vote in committee for this bill--oh, Senator Janssen, all right. I have some of the same concerns as Senator Lautenbaugh and others, in no way want to take away from anything that Mr. McBride did. But I don't know where we draw the line of putting more names on a building. And does it take away from Senator Carpenter's name? I don't know. Senator Avery did say that he would be all right with me putting my name on the building that will be named after him, but I don't know what that will be and why my name would be on it, but he said he'd be okay with that. I just have a little bit of a concern on what it does, what kind of precedent it starts. And it looks like maybe Mr. McBride has done so much that he deserves his own building; I don't know. And when will that be? I don't know either; I'm not that familiar with educational TV and what they all have there. But maybe he deserves even more. I think one point that came up in committee by the family member of Senator Carpenter was, how would we feel if Tom Osborne Field someday was changed to Tom Osborne/Bo Pelini Field? Would that go over well? Would it not? I don't know; we don't know. But I thought it did bring up an interesting point. Again, I don't think anyone wants to take away from the accomplishments of Mr. McBride nor Senator Carpenter. But I did have some concern about it and just wanted to let the body know why I did vote no on this bill. Thank you, Mr. President. [LB122]

SENATOR GLOOR: Thank you, Senator Karpisek. Chair recognizes Senator Hadley. [LB122]

SENATOR HADLEY: Mr. President, members of the body, would Senator Harms yield to a question? [LB122]

SENATOR GLOOR: Senator Harms, would you yield to a question? [LB122]

SENATOR HARMS: Yes, I would. [LB122]

SENATOR HADLEY: I guess I'm asking this question out of ignorance. Is there a state policy on the naming of state buildings? I know that universities and colleges generally have policies on the naming of buildings. Are there any state policies on how state buildings are named? [LB122]

SENATOR HARMS: You know, I really don't--I can't answer that question. I don't know. [LB122]

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SENATOR HADLEY: Okay. I just wondered if...you know, we have a state office building; if someone wants to come in and name it the Senator Karpisek State Office Building, does that come to us? Or...you know, what is the policy on...or should the state have a policy on naming of state buildings? Thank you, Mr. President. [LB122]

SENATOR GLOOR: Thank you, Senator Hadley. Senator Janssen, Chair recognizes you. [LB122]

SENATOR JANSSEN: Thank you, Mr. President, members. I, too, like Senator Lautenbaugh, did not plan to rise to speak on this when I saw it in committee. In fact, I spoke to somebody prior to committee and was led to believe that the Carpenter family was on board with this. So I was a little surprised to see their opposition when it came to our committee. I was present, not voting on that, which I'll probably do on this. And I was going to bring up the analogy that the lady in Government brought up, with the Carpenter family, about the Bo Pelini/Tom Osborne Field, but Senator Karpisek stepped on me--on that line. But, I guess, I thought about that, how would I feel? Well, part of me probably would feel pretty good, because it means Bo Pelini stayed with us and didn't go to another coaching job. And it also would mean that he had some considerable accomplishments to that same level of Coach Osborne. But it also made me think that you probably would find a new facility to name in that person's honor. And, I guess, when you talk about whose place is it to say how Senator Carpenter would feel about this if he were here today, I don't feel that I'm comfortable in doing that or we should feel comfortable in predicting how that would be. I think the only person or people that should feel comfortable saying that is the Carpenter family itself. Those are my reasons for not voting on it and, most likely, the reason that I won't vote either way on this measure. Thank you. [LB122]

SENATOR GLOOR: Thank you, Senator Janssen. Senator Sullivan, you're recognized. [LB122]

SENATOR SULLIVAN: Thank you, Mr. President. I rise in support of LB122. Granted, this may at first blush appear to be a unique request. Will it set a precedent? I doubt it. I would venture to guess that there may be future requests. We can't predict that. And we will take them as individual requests, perhaps. But this one really and truly is unique. I don't know what events led up to, specifically, to the naming of the current telecommunications building. It's quite possible that Jack McBride would have been--it would have been suggested to have his name added at that time. To a certain extent, I'm guessing that the whole development of Nebraska telecommunications was almost a tandem effort between Senator Carpenter and Jack McBride. As you can see in the resume, Jack McBride worked very hard for the development of the contents of that building. Senator Carpenter, God rest his soul--and also God rest Jack McBride's soul--Senator Carpenter worked to get the money for that building. But Jack McBride really put the contents in there that has gained us national recognition as a

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telecommunications and educational television facility and program. I can remember, as an undergraduate at NU and then later on actually helping to co-host a program on ETV, when we did production in the bowels in the basement of the Temple Building on city campus. And what a change it was to move into the new facility and all the kinds of creative activity that went on in there. It was under the leadership of Jack McBride. So I think it's entirely appropriate that we add his name, in spite of the fact that there's some resistance from the Carpenter family, but you have to keep in mind that they're looking at that very narrowly. I respect their feelings. I don't in any way feel that it diminishes the recognition given to Senator Carpenter years ago. But I think that it probably, even in his mind perhaps, would fulfill a total recognition for what ETV stands for. Thank you very much. [LB122]

SENATOR GLOOR: Thank you, Senator Sullivan. Senator Nelson, you're recognized. [LB122]

SENATOR NELSON: Thank you, Mr. President, members of the body. I would like to ask Senator Harms a question or two, if he will yield. [LB122]

SENATOR GLOOR: Senator Harms, would you yield to Senator Nelson? [LB122]

SENATOR HARMS: Yes, I will. [LB122]

SENATOR NELSON: Thank you for bringing this bill, Senator. I take it from...it's not apparent here in this extensive biography, but is Mr. McBride now deceased? [LB122]

SENATOR HARMS: Yes, he is. [LB122]

SENATOR NELSON: Was that just fairly recently? [LB122]

SENATOR HARMS: I think it's been a couple years ago. [LB122]

SENATOR NELSON: Okay. I, too, remember him from University of Nebraska days and the work he did; he was a truly exceptional person. I don't exactly remember when the current building was put up. [LB122]

SENATOR HARMS: I don't recall that. [LB122]

SENATOR NELSON: Okay. Was Senator Carpenter deceased at...? [LB122]

SENATOR HARMS: Yes, he is. [LB122]

SENATOR NELSON: ...so he...well, he is now, but was he at the time the building was...? [LB122]

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SENATOR HARMS: No. He...Senator Carpenter was instrumental--he was on this floor--he was instrumental in securing the money. And as Senator Ashford probably remembers, he's a legend in himself. He was... [LB122]

SENATOR NELSON: Oh, absolutely. So was the building named for him at the time that it was built? Or was it after his death? [LB122]

SENATOR HARMS: I believe it was named for him at the time it was built, right after it was built. [LB122]

SENATOR NELSON: But it was before his death. So just as Tom Osborne is still alive, Senator Carpenter was alive at... [LB122]

SENATOR HARMS: Yes. Yes, he was. [LB122]

SENATOR NELSON: ...at the time. I've toured that building. I think with most television buildings and everything, there's a main studio where everything is done, an auditorium type. Is that presently named for anyone? Do you know? [LB122]

SENATOR HARMS: I don't know if it is or not. [LB122]

SENATOR NELSON: It would be possible that something of that sort, the interior of the building, could be named for Mr. McBride and still honor him but not have a double identity on the face of the building itself. Is that true? [LB122]

SENATOR HARMS: That would be possible. [LB122]

SENATOR NELSON: All right. Thank you, Senator. Thank you, Mr. President. [LB122]

SENATOR GLOOR: Thank you, Senator Nelson. Seeing no other senators wishing to speak, Senator Harms, you're recognized to close on the advancement of LB122. [LB122]

SENATOR HARMS: Thank you, Mr. President. First I want to--would like to clarify something for you as colleagues. I did take the time to visit with Barbara Carpenter about this very issue that we're talking about. She came to my office, and we sat down, and we visited about this. And I encouraged her to go before the committee. I've never been--never tried to hide anything here. I was very open, transparent, and I encouraged her to get after the issue as she felt comfortable in doing that. Actually, at the hearing that we had--I had to leave early because of where we were with the Appropriations Committee--I leaned over when I left, to see her, and I said: Barbara, don't be intimidated by this process; get up and tell your story. So I've been very open, very

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frank, very honest with her. And I think she's the only one left in the family of the Carpenters. I think there's a couple of grandchildren; other than that, that's the family itself. So as I said before, I would do nothing to bring any kind of an embarrassment or shame or clouding the families' names, on either side. And if I thought one minute that we were doing that today, I would pull this bill. So I would urge you to go ahead and support LB122, because I think it honors both men appropriately. And, Mr. President, I just would like to have a roll call, please. Thank you. [LB122]

SENATOR GLOOR: Thank you, Senator Harms. The question is the advancement of LB122 to E&R Initial. Senator Harms, would you approach the podium, please. There has been a request by Senator Harms to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB122]

CLERK: 33 ayes, 0 nays, Mr. President, to place the house under call. [LB122]

SENATOR GLOOR: The house is under call. Senators, please record your presence. Those unexcused 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 Conrad, please report to the floor for a call of the house. All members are present and accounted for. The question is, shall LB122 advance to E&R Initial? Mr. Clerk, please call the roll. [LB122]

CLERK: (Roll call vote taken, Legislative Journal page 363.) 35 ayes, 2 nays, Mr. President, on the advancement. [LB122]

SENATOR GLOOR: The bill advances. The call is raised. [LB122]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR24, LR25, LR26, LR27, LR31, LR32, LR33, LR34, LR35, and LR36. Mr. Clerk, items for the record. [LR24 LR25 LR26 LR27 LR31 LR32 LR33 LR34 LR35 LR36]

CLERK: One item, Mr. President. Health and Human Services offers a confirmation report, signed by Senator Campbell. Name adds: Senator Howard to LB552, Senator Lautenbaugh to LB51. Senators Fulton, Christensen, Pirsch, Brasch, Carlson, Schilz to LB51. Senator Schilz to LB608. (Legislative Journal page 364.) [LB552 LB51 LB608]

Senator Sullivan moved to adjourn the body until Wednesday morning, January 26, at 10:00 a.m., Mr. President.

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SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. We are adjourned. (Gavel)