

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

[]

FOLEY: [RECORDER MALFUNCTION] Call to order the thirteenth day of the One Hundred Sixth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

ASSISTANT CLERK: There is a quorum present, Mr. President.

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

ASSISTANT CLERK: No corrections this morning.

FOLEY: Thank you, sir. Any messages, reports, or announcements?

ASSISTANT CLERK: I have a notice of committee hearing from the Business and Labor Committee. An announcement that Senator Lowe has been chosen as Vice Chair of the Building Maintenance Committee. The Legislative Planning Committee has selected Senator Vargas as Chair and Senator McCollister as Vice Chair. And the Performance Audit Committee will be meeting under the north balcony at 9:15. That's all I have at this time.

FOLEY: Thank you, Mr. Clerk. (Doctor of the day introduced.) Members, we'll move right in to the agenda, General File, LB67. Mr. Clerk.

ASSISTANT CLERK: LB67 introduced by Senator Matt Hansen. (Read title.) The bill was introduced on January 10, referred to the Urban Affairs Committee. The committee placed the bill on General File with no committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Matt Hansen, you're recognized to open on LB67.

M. HANSEN: Thank you, Mr. President, and good morning, colleagues. LB67 is a bill that simply updates sections we missed when we passed an Urban Affairs bill in 2017 in addition to a couple of other cleanup items. An identical bill was passed by the body last year, but was unfortunately caught up in the Urban Affairs package of bills that was vetoed in late last session due to issues from another bill. This is the second year in a row that this bill has been advanced unanimous from the Urban Affairs Committee. For background, in 2016, I introduced LR526, an interim study to examine municipal classifications. Following that interim study, we passed LB113 in 2017 which clarified references to municipal populations and municipal population

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

thresholds in a number of statutes. The intent of that bill was largely to clarify that population thresholds from municipal classifications were based upon the official census figures and inserting clarifying and cleanup language to that effect. While LB113 was being passed in 2017, during Enrollment and Review process for the bill, we identified a number of additional sections which also contained references to municipal population thresholds but were not include in that bill. Ultimately, we decided that there were enough to result in a new bill, last year's LB748. That bill and this identical one is designed to clarify those municipal classification thresholds that were not previously addressed with the passage of LB113. Additionally, while most current statutes referenced the federal decennial census as a point to which municipal population threshold is legally met, a handful of such sections do not include a reference to the census and are generally unclear as to when the threshold is legally met. LB67 provides that any remaining thresholds are legally met based on official census data, either the most recent federal decennial census, or the most recent revised certified account. This bill would also correct a change from LB113, which inadvertently excluded cities with certain exact populations from receiving grants under the Civic and Community Center Financing Act. I'd like to thank Urban Affairs legal counsel, Trevor Fitzgerald, and Bill Drafters for drafting these updates and working with us on this issue for what is now over two years. With that I would ask for your green vote on LB67. Thank you, Mr. President.

FOLEY: Thank you, Senator Hansen. Debate is now open on LB67. Seeing no discussion, Senator Hansen-- he waives closing. The question for the body is the advance of LB67 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 40 ayes, 0 nays on the motion to advance the bill.

FOLEY: LB67 advances. Next bill, Mr. Clerk.

ASSISTANT CLERK: LB193 introduced by the Urban Affairs Committee. [Read title.] The bill was introduced on January 11; referred to the Urban Affairs Committee. The committee placed the bill on General File with no committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Wayne, you're recognized to open on LB193.

WAYNE: Thank you, Mr. President and members of the Legislature. In 2014, the Urban Affairs Committee began a multiyear effort to update and modernize statutes governing the various classes of municipalities. LB193 is a cleanup bill for the statutes in Chapter 19 which govern some, but not all, of the classes of municipalities. The Legislature has previously passed similar cleanup bills for the cities of the first class in Chapter 16 and the cities of the second class and

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

villages in Chapter 17. LB193 amends more than 200 separate sections and the types of changes contained in the bill are generally grouped into 13 categories which is listed in the committee statement. Key changes in the bill include changing and correcting terminology. For example, changing "governing body" to "city council" and "city of the second class"—I'm sorry, "second class city" to the correct term "city of the second class." Updating provisions relating to the commission plan and the city manager plan of government, while nearly all cities have a mayor-council form of government, ten cities have city manager forms of government and one city has a commission form of government. Much of the language in the commission plan the city manager statutes has not been amended since Nebraska statutes were recodified in 1943. Some even date back as to the early 1800s. Clarifying references to legal newspapers and other category: various sections of the municipal statutes refer to newspapers used for legal notices in different ways. For example, "located in the city," "published in the city," or "general circulation of the city." Some statutes require legal newspapers, others just require a newspaper. LB193 uses the same phrasing in all cases-- "published for a period of X in the legal newspaper-- in a legal newspaper in or of the general circulation of the city." There is an existing definition of legal newspaper in the statute, and every newspaper in the state currently meets that legal definition. In addition to those key changes, LB193 makes a large number of technical changes, including alphabetizing terms, correcting subject-verb agreement, updating references to business improvement districts and off-street parking, correcting references to city officials, correcting gender references, eliminating run-on sentences, correcting and harmonizing statute references, replacing or eliminating antiquated or obsolete language. LB193 received no opposition testimony at the hearing and was advanced by the Urban Affairs Committee with a unanimous 7-0 vote. I would ask for your support with a green vote to move this to Select File. Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. Debate is now open on LB193. Senator Wayne, you're recognized to close. He waives closing. The question for the body is the advance of LB193 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 41 ayes, 0 nays on the motion to advance the bill.

FOLEY: LB193 advances. Next bill LB194, Mr. Clerk.

ASSISTANT CLERK: LB194 introduced by the Urban Affairs Committee. [Read title.] The bill was introduced on January 11; referred to the Urban Affairs Committee; placed on General File with no committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Wayne, you're recognized to open on LB194.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

WAYNE: Thank you, Mr. President, and members of the Legislature. As I stated in the previous bill, in 2014 Urban Affairs Committee began a multiyear effort to update and modernize statutes governing various classes of municipalities. The Legislature has previously passed similar cleanup bills for the cities of the first class in Chapter 16, and cities of the second class and villages in Chapter 17. During the committee's work on the most recent cleanup bills, committee staff discovered that when the Legislature cleaned up Chapter 16 in 2016, a number of sections governing the cities of the first class had not been amended to clarify those sections, only applied to the cities of the first class. LB194 would amend those sections that were missed in 2016, clarifying that the relevant sections only apply to cities of the first class. LB194 received no opposition testimony in the hearing and advanced by the Urban Affairs Committee unanimous 7-0. I would appreciate your green support to move this to Select File. Thank you.

FOLEY: Thank you, Senator Wayne. Debate is now open on LB194. Senator Erdman.

ERDMAN: Thank you, Mr. Lieutenant Governor; good morning. Good morning, colleagues. I was wondering if Senator Wayne would answer a question for me, please.

FOLEY: Senator Wayne, would you yield, please?

WAYNE: Yes.

ERDMAN: Senator Wayne, was this part of that Christmas tree bill your committee brought out last year?

WAYNE: No, sir. This-- actually Senator Hilgers asked me the same question. No, these are just cleanup bills where we're just changing words from "he" to "he or she", from "governing of council" to "city council" just making it harmonize. It's not any substantial language. And no, it is not the Christmas tree bill that was vetoed. Why do you have to bring up painful memories of last year?

ERDMAN: Thank you for your answer. I will support the bill. Thanks, Senator Wayne.

FOLEY: Thank you, Senator Erdman and Senator Wayne. Further discussion? Seeing none, Senator Wayne, you're recognized to close on the advance of the bill. He waives closing. The question for the body is the advance of LB194 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 40 ayes, 0 nays on the motion to advance the bill.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

FOLEY: LB194 advances. Next bill, Mr. Clerk.

ASSISTANT CLERK: LB196 introduced by the Urban Affairs Committee. [Read title.] Bill was introduced on January 11; referred to Urban Affairs; placed on General File with no committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Wayne, you're recognized to open on LB196.

WAYNE: Thank you again, Mr. President, and members of the Legislature. As returning members of the body may recall, the last session Urban Affairs passed LB874, the compromise rewrite of Nebraska Tax Increment Financing statutes. One of the minor changes in the TIF bill updated the process in which municipalities gave public notice to TIF-related hearings to neighborhood associations. LB196 would amend the requirements for neighborhood association notices in other portions of the statute so that those requirements would mirror what was passed last year in the newly-compromised-- agreed to TIF statutes by this body. Currently, neighborhood associations may request to receive planning notices for actions being taken in or around the association's area of interest in four places in the statute. TIF, Tax Increment Financing, zoning changes in cities of the metropolitan class, adoption or amendment of zoning ordinances in the cities of the metropolitan class, and formation and expansion of business improvement districts. Under existing statutes, neighborhood associations wishing to receive these notices must opt in to receive the notice and may select from among four preferred methods of receiving the notice: e-mail, regular mail, certified mail, or registered mail. LB196 is a cleanup to the neighborhood association notice provisions with only one substantive change being the elimination of registered mail as a potential method of notice. Both certified and registered mail provide that recipients must sign for the letter or package as proof of delivery. Registered mail adds an additional step such as a transport via locked cages, safes, and sealed containers. Such security steps are generally unnecessary for sending simple public notices, so it makes sense to eliminate the registered mail as an option. LB196 received no opposition testimony at the hearing and was advanced unanimous 7-0 vote by the Urban Affairs Committee. And I would ask for your green light to move this to Select File.

FOLEY: Thank you, Senator Wayne. Debate is now open on LB196. Seeing no discussion, Senator Wayne-- he waives closing. The question for the body is the advance of LB196 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 42 ayes, 0 nays on the motion to advance the bill.

FOLEY: LB196 advances. Next bill, Mr. Clerk.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

ASSISTANT CLERK: LB117 introduced by Senator Hilgers. [Read title.] Bill was introduced on January 10; referred to the Transportation and Telecommunications Committee, placed on General file with no committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Hilgers, you're recognized to open on LB117.

HILGERS: Thank you, Mr. President. Good morning, colleagues. I'm proud to introduce and open on LB117 which is the continuation of an effort over the last couple years between myself and the Transportation and Telecommunications Committee and the Nebraska Department of Transportation to make our bidding in highway construction process more streamline, business friendly, save money, and do it at a high quality. LB117 makes two additional changes as a continuation of that effort. What I'll do is sort of briefly describe what the current process is and then sort of detail how the changes would make that process a little bit better, I think, and more cost effective. So currently, if you want to be-- if you own a construction company, you want to bid on a project, you need to get prequalified. And one of the requirements, it's a statutory requirement, is to get a certified financial statement from your company in order to be prequalified. So if you're that business, small business, large business, it doesn't matter, you go get your certified financial statement. You give it to the Department of Transportation. They take a look at it and they have to do their own analysis to determine whether or not you would be qualified to do the particular project, understanding that a financial statement on its own is valuable, but it's really insufficient to know whether or not a particular company can actually do a job. And that's particularly true now, in this day and age, with the sort of complex corporate structure with multiple corporate entities for various construction companies and whether their equipment is housed or if there's, maybe, joint ventures and the like. And so it adds a lot of additional work for the Department of Transportation. At the same time, if you want to be on a-- if you want to bid on a construction project, you will work through a bonding agency to get a contract bond to help protect the performance of that project. And that's important here for a second-- I'll explain in a second. And so what this-- so that's how it currently works. And so what this process is, you've got an additional cost on the contractor. You have additional work on the Department of Transportation because what they're working on, that certified financial statement, it's helpful, but it's not in and of itself enough to be able to judge their ability to perform under the contract. What this would do is it would eliminate-- this LB117 would eliminate that requirement for the certified financial statement. What's critical though is we think that the process will work better because what-- instead of the certified financial statement, the department will rely on a certificate from the bonding agency. So the bonding agency has skin in the game. They have a direct incentive to make sure that the contractor actually can perform the contract. And so that certificate, we think, will be a lot more valuable to the department than a certified financial statement. At the same time, it would eliminate an additional step for the contractor, so reducing some cost, maybe potentially increasing the pool of potential bidders, making things a little bit more streamline. So ultimately, it saves some time on the-- for NDOT;

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

it saves time and cost for the contractor, and probably ends up to be a better result. So that's the first change that LB117 would do. The second one is very straightforward. It would allow the Department of Transportation to issue-- bid documents through an electronic means. Currently, it's through paper. There's a lot of copying costs, printing costs, and storage cost for that particular paper. So as we-- as society moves more fully to online electronic system, this will help save some additional costs and move that ball forward as well. So this bill had no opposition in committee. It advanced on an 8-0 vote. And I would ask for your green light on LB117. Thank you, Mr. President.

FOLEY: Thank you, Senator Hilgers. Debate is now open on LB117. Senator Chambers.

CHAMBERS Thank you. Mr. President, members of the Legislature, I would like to ask Senator Hilgers a question or two.

FOLEY: Senator Hilgers, would you yield, please?

HILGERS: Absolutely.

CHAMBERS: Senator Hilgers, I had mentioned the other day that sometimes I will see words and I rearrange the letters and come up with a different word. So I want to be sure there's nothing in code here. This bill deals with highways and bridges.

HILGERS: Yes, that's right. The bidding process for highway construction.

CHAMBERS: Right, now, there's nothing in here, which if we're not attentive, would refer to high bridges, is there?

HILGERS: There very well may be. I can't certify, Senator Chambers, that that's the case. I don't believe so, but it very well-- there may be a reference.

CHAMBERS: But if it did, the bridge wouldn't be any higher than necessary to serve the function of a bridge, whether it's going over a lake or creek or river or connecting two roads.

HILGERS: I believe that to be the case, yes, sir.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

CHAMBERS: Is there anything in here relative to the possible building of a wall between Nebraska and Colorado due to the attitude that Nebraskans have toward marijuana and the attitude that Coloradans have?

HILGERS: There's no wall reference in this bill, Senator Chambers.

CHAMBERS: Thank you, and I appreciate that. It opens a way for me to give my daily paean to the lady that I respect and admire greatly, that is Speaker Pelosi. She punctured that windbag, didn't she? She made him back up, didn't she? Tuck his tail like a little scared puppy dog and run for his hole, didn't she? She raised seven children. She's a grandmother. She recognizes obstreperousness in spoiled brats. And she knew that's what she's dealing with in this 70-something-year-old spoiled brat. And she dealt with him in that fashion. And what Trump probably recognized was something in his own grandmother where she was trying to correct him. And all that came to him and he tried to, with as much grace, well, he doesn't have any grace, with as little embarrassment as possible to halfway back away. It's like somebody sticks a knife in your back six inches and pulls it out three inches and feels that something good has been done. To reopen the government and say it's open for 15 days unless you give this obstreperous brat his way, I'm going to close it again and you know what you can do with those poor people. And as one of my people stated, let them get a low-interest loan. Let them do that if they're having problems making ends meet, but-- how much time do I have, Mr. President?

FOLEY: About two minutes.

CHAMBERS: Maybe I can finish this. Made me think of a song, Nat King Cole sang it. I'm not going to sing it, maybe part of it. "The buzzard took the monkey for a ride in the air. The monkey thought that everything was on the square. The buzzard tried to throw the monkey off his back. The monkey grabbed his neck and said, listen, Jack, [SINGING] straighten up and fly right. Straighten up and fly right. Straighten up and fly right, cool down, papa don't you blow your top. The buzzard told the monkey you're choking me. Release your hold and I will set you free. The monkey looked the buzzard right dead in the eye and said your story's touching, but it sounds like a lie. Then straighten up and fly right. Straighten up and stay right. Straighten up and fly right. Cool down, papa, don't you blow your top." So add that to the song list, which now has two songs: "You Don't Own Me" and "Straighten Up and Fly Right" dedicated to that lunatic you all have in the White House. I'm going to turn on my light and speak one more time because I have something I've got to say. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator McCollister. Is Senator McCollister on the floor?

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

McCOLLISTER: Thank you, Mr. President; good morning, colleagues. I'd like to commend Senator Hilgers for this bill. As a contractor in the '70s and '80s and '90s to the state of Nebraska, we had to go through a lot of hoops in order to qualify to bid. And when they simplified some of the procedures, it made it much easier to bid. And I think this is another improvement that's going to make it possible to get more bidders and perhaps more qualified bidders, so. I encourage you to vote green on LB117.

FOLEY: Thank you, Senator McCollister. Senator Chambers.

CHAMBERS: Thank you, Mr. President. The reason I bring up the President is because of how serious the world situation is becoming, primarily because of his irresponsible, lunatic, imbecilic ways. And I use those terms not advisably, I mean every one of them. And were I like the President and would use obscenities I would use some of those. He was upset when somebody made a remark about him, and it included, I don't know if it was a vulgar word, an obscene word, or just inappropriate, but in speaking of African countries in Haiti, he used that vile word for feces that begins with "s" and ends in "t." Those blank-hole nations and people, speaking about black people. That's what should apply to him. He used the word son of a bitch to apply to a black football player. He uses that language. Americans don't get outraged. Well, if he's going to put it out there, he should be able to take it. And besides that, he cheats on his wife. He wears ill-fitting suits also. That's why he wears that big coat and will not take it off and let you see what's going on underneath it. I bet he hasn't missed a meal during all of the shutdown of the government. And you know what made me really feel I had to say something this morning, as I drove down here, the wind was very strong. There were gusts which could move vehicles. I thought about how cold it is out there. And I think in terms of human beings. There are human beings out there with no place to live. They're like that little baby that you all worshiped when he became a man. There was no room for his parents in the inn, so they were put in a barn. There are not even barns for these people to enter. There were thousands of people, I read in the paper, marching for life as it was called. But you don't see them speaking out for the homeless, for the hungry, for those without medical care, for the mentally disabled, those who could stand to have thousands march for them. So they make a great show and I think it's entirely hypocritical. All of these people that I'm speaking of who may be adults, young adults, and children were once in the womb. Well, now that they're in the world, that interest has gone away. So when I watch these hypocritical displays, they don't impress me at all. They turn me off. But I'm just one person. However, I have a vote. I have a voice. And I have time on my side this legislative session. There are warring bills designed to deal with what they call the property tax issue. So some of you all automatically are going to be at each others' throats. I will observe these things. And I'm going to make use of everything I can to help the people that I'm concerned about: the least, the last, the lost, whether they're my complexion, whether they're your complexion. Whether they're my gender; whether they're your gender; whether they're a transgender. Whether they are lesbian;

Floor Debate  
January 28, 2019

---

whether they are gay, whether they are, as I said, transgender. Here's what I have to tell you, and this is for the white males. Are you Homo sapiens? That is to say, human.

FOLEY: One minute.

CHAMBERS: Don't ever underestimate the power of a woman. And when women wake up and realize that they have a numerical majority in this country, that they don't have to come whining and begging these old stogy, misogynistic white men for anything, but they can take over offices as they showed in this most recent Congressional election, just by going to the voting booth and voting. Young women need to pay particular attention to this. They have to register. They have to vote. They have to be active participants and let these men know that you're not going to come whining and begging and let them know you don't trust them. They're totally untrustworthy. You don't know whether one of these old--

FOLEY: Senator Chambers, that's time, but you may continue on your next opportunity. This is your third opportunity.

CHAMBERS: Thank you, and I won't have anything to say on these other bills. One of these old codgers may come up to you and you think he's just being courteous, gracious, considerate, and thoughtful, then the next thing, his fingers begin to get itchy and he might want to put his hand on you somewhere. Don't let them put their hands on you. They can communicate with words, and they don't have to do any touching. And if any of you are touched in a way or spoken to in a way that you deem inappropriate and you need somebody to talk to about it, come to me. I consider everybody on this floor to be my children as I've stated. Fractious, disobedience, stiff-necked, hardheaded, disobedient, and I know how to bring them in line. So there's not going to be any mistreatment of women while I'm here if it's brought to my attention. And I say again, oh, but here's what we might have to do because of the narrow mindedness of people in Nebraska and especially the Legislature. We can't say Homo sapiens anymore, we have to now say Hetero sapiens. No more Homo sapiens in Nebraska; Hetero sapiens, and certainly no trans sapiens in Nebraska. Look up that term in the dictionary and see why it's applied to human beings, the wise ones, the wise ones, the thinkers, those who can understand. And those who, if they act in accord with wisdom, knowledge, and understanding will recognize that the arc of history is long. We may not do things while we're here that are dramatic in terms of the impact in helping people, but we have an obligation to do what we can do, whether it's little or much. Nobody can require anymore of you than the best that you can do. And it may not achieve what other people reckon to be success, but if you acted in accord with what you believe, and you've done the best that you could, no matter what the outcome is, you have nothing to be ashamed about, nothing to be embarrassed about, but you should continue to think and see if there might be a more advantageous way to attempt what you did. And I'll tell you why I keep saying these things.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

When those bad national decisions taken by your President, and international decisions, begin to bear bitter fruit you all are going to suffer for it, not him, not his family. They don't care about you. They don't care about your kind. Your kind don't get invited to their affairs. They use you. And these so-called base people are the dumbest people who ever trod the face of the earth. Even the flat earthers at least acknowledge that there is an earth. There is an earth. They just were not knowledgeable about the actual configuration. So as long as you all pray every day, I don't know if you salute the flag every day, because I wasn't able to watch you today, I'm going to have my say based on my principles. And if you want me to stop or reduce--

FOLEY: One minute.

CHAMBERS: --the number of times I speak like this, cut out the hypocritical praying. Jesus said those who pray on the street corners in public are hypocrites. He said, be not as the hypocrites are. And he would have said in the Nebraska Legislature, you go in your closet and you pray to your Father in secret who will reward you openly, and don't come with all this begging because he knows what you have need of before you ask. You don't believe the Bible. You don't believe Jesus, and you certainly don't believe in God. Do you? I know you don't. Your mouth might draw near, but you're far from him in terms of what you do. That's paraphrasing what Jesus-- the one you all say you all worship. If Jesus came in here and spoke, you all would hang him up on that wall, because Jesus was harsher than I am. He referred to people as sons of vipers, which would be the equivalent of SOBs, the kind of language that Donald Trump--

FOLEY: Time, Senator.

CHAMBERS: --uses, but I don't. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Cavanaugh.

CAVANAUGH: Thank you. I just wanted to respond to some of Senator Chambers' comments, and I have the greatest respect for you, Senator Chambers, but I do want to be mindful that even you at times can maybe say some things that you don't intend about women. We are awake. We're here. There's more of us in this body than have ever been before, and we will stand up for ourselves and other women. I appreciate your support, but please don't insinuate that we're not here and we don't have our own voice, because we do. Thank you.

FOLEY: Thank you, Senator Cavanaugh. Senator Hilgers, you're recognized to close on the bill.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

HILGERS: Thank you, Mr. President. Thank you, again, colleagues. Thank you, Senator McCollister, for the positive remarks on this bill. I ask for your green vote on LB117 and help further streamline and reduce costs in the Department of Transportation and highway construction process. Thank you.

FOLEY: Thank you, Senator Hilgers. Members, you heard the debate on LB117. The question for the body is the advance of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 42 ayes, 0 nays on the motion to advance the bill.

FOLEY: LB117 advances. Next bill, Mr. Clerk.

ASSISTANT CLERK: LB79 introduced by Senator Friesen. [Read title.] The bill was introduced on January 10; referred to the Transportation Committee; placed on General File with no committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Friesen, you're recognized to open on LB79.

FRIESEN: Thank you, Mr. President, and members of the Legislature. LB79 is a bill relating to the motor vehicle and carrier enforcement. It was advanced unanimously by the Transportation and Telecommunications Committee. The bill has two parts. First, it updates references to federal regulations that we have incorporated into our statutes. It strikes January 1, 2018, and inserts January 1, 2019, in references relating to motor carrier safety, cabin trailers, low-speed vehicles, parking, registration, driver's license, and state ID cards, source documents, trucks, hazardous materials, seat belts, the state Lemon Law, and records. These references are updated every year so that they are current with any updated federal regulations. The second part of the bill is in Section 9; it adopts the latest version of the International Registration Plan. This provides a modification for interstate motor carriers to allow registration credentials to be displayed either as paper credentials or as a legible electronic credential. The Department of Motor Vehicle is currently conducting a pilot project, exploring the electronic credentials with a limited number of carriers. I urge you to advance LB79 to Select File and I'd be happy to answer any questions you may have about the bill.

FOLEY: Thank you, Senator Friesen. Members, you heard the opening on LB79. Debate? Senator Chambers.

Floor Debate  
January 28, 2019

---

CHAMBERS: Thank you. Mr. President, and members of the Legislature, a comment for a comment. I appreciate what Senator Cavanaugh said. But women are not active in the numbers that they ought to be. Women are not in this Legislature in the numbers they ought to be. And when one or two or three or four token women wind up in an assembly or in a corporation, they should not accept that as progress and say there can now be some measure of contentment and acceptance. I have innumerable nieces, and I know how they are treated and mistreated. In the classroom, in the workplace, wherever they come in contact with white men, there are things said, which they dare not respond to if they want to keep their jobs. I know what goes on in this world, and I'm glad to see the few women that are here. But I've been in this Legislature and had to bring issues that pertain to women that the women in the Legislature didn't. For example, state employees who are women had to pay the same into their pension fund as the males. But the policy of the state was that women would receive a smaller payout when they retired because they live longer. So they'll use up more, I guess, whatever it was, but anyway I brought a bill and I said, that is crazy. That is discrimination, and it has to stop. When a woman who is retired goes to the grocery store and a man who retired goes to the grocery store, they're not going to charge her less for a loaf of bread than they charge the man because she got less payout on her pension than he got on his. And you know who brought this thing to my attention? A black woman who now works in my office, Cynthia Granberry. When she told me about it happening, I couldn't believe it. It didn't seem possible. But I investigated and found it to be the case. And I got a law passed that changed it. I don't look for people who have been abused, who have been mistreated, who have been dominated to alone overcome those problems. They develop an attitude of not pushing too hard, not trying to move too fast, not alienating or irritating the master because he can make it worse than it is. I've been in this world a long time. I know what happens to black people, and the most discriminated against class of people in this society are black women, are black women. And no white woman, white man, or anything white is going to tell me about the conditions of people who are suffering and oppressed. There are things that I could have done other than be in this Legislature, and I could have made a lot of money at it. I could have had a title. I could have had a position. There was a priest who even wanted to open the door for me to get a teaching position at Creighton University. I don't want to teach at any university. There was a senator here, and there was a law professor who wanted me to teach at the law school down here. That's not what I want.

FOLEY: One minute.

CHAMBERS: Maybe a part of me would. But let's say that I became a lawyer, and I handled some high-profile cases and won. The only ones impacted would be those who were affected by whatever the issues were. And if I won it in court it could be lost in court. If I got in the Legislature, and I was tricked into this, people played on my feeling and sense of responsibility to my community, so I ran for the office as a very young man, relatively speaking, and won, but I had no idea I would be here all of these years. But once I got here and I saw the problems, there

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

was no way I could walk away. And if I got a law changed, such as the one with pensions. Let's say I argue for one woman and they made it right for her, if I get a law it makes it right for everybody who is female and mistreated by this state.

FOLEY: Time, Senator.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Cavanaugh.

CAVANAUGH: Thank you. Senator Chambers, what kind of woman would I be if I let you have the last word on this? I appreciate everything you've done in your legislative history. I think my point was maybe a little bit missed. I just wanted to let you know and everyone else in this Chamber know that women are awake. We know what's going on. You might not agree with our way of doing things, but we're here and we're doing them. Two years ago, there was a march in Washington, D.C., with thousands and thousands and thousands of women letting the world know that our voices will be heard. We don't all agree with each other. We don't have the same approaches to problems, but we're here and we're fighting for ourselves and we're fighting for others. And I think we deserve respect for that and not to be told how to manage our business, not by you or any other man should be telling us how to manage our business or how to think. And I'm excited to be here, to work with everyone in this room, and to legislate my own way and to find my way and to make my own mistakes and learn my own lessons. I appreciate you being an advocate for everyone, but maybe just be a little bit more thoughtful when you're talking to women about women. Thank you. Thank you, Mr. President.

FOLEY: Thank you, Senator Cavanaugh. Senator Chambers.

CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm not just talking to and about the women in this Legislature. There's a big world out there. There are a lot of women out there. What you need to do is walk these streets sometimes and you'll see what I'm talking about. Not those who have somebody who will take care of them, provide a home, provide medical care. No, that's not the standard. I see women who are rich, relatively speaking, talking about the fact that women who work don't make the same amount as men who do the same job. Women train men on jobs and then the man who was trained becomes a supervisor. That still goes on. And it will continue to go on. And I'm going to continue to say what I say in the way that I think I ought to say it. Until I see women holding majority positions, then women are not doing what they ought to do. Let them get angry at me. Anger, when it's properly directed, is a revolutionary sentiment. Women ought to be angry. But they shouldn't be angry with me, but do I care if they are? Heavens no. There are black people who got jobs, and they think and they have thought and

Floor Debate  
January 28, 2019

---

made it clear to me that I make it hard for them because they're always asked questions on their job-- what do you think about Ernie Chambers? And they don't want to lose their jobs. And that's the acid test for a black person. There's one who's now a member of the Douglas County board who ought not be there, voting for a proposal on a youth detention facility that will raise the property taxes for everybody, including the people in the district he supposedly represents. There will be fewer beds for children who may wind up in that facility, and he has never uttered a word about the fact that black people make up a small percentage of the overall population in Omaha, but they have always-- black children outnumbered the white and other groups of children in the lockup. They're locked up, our children, out of all proportion to our numbers in the population. Sometimes in the year it might be as high as 80 percent, and some of them are female, and I'm going to sit back and watch that because some person is offended at what I say. Well, think like you think you should. Do what you think you should. But I have to hear you say something about these young black girls and black women who are being locked up in ways that white girls and white women are not. It doesn't occur to white people to be concerned about us, but it concerns me when something's happening to anybody. And do you know why? Because I know what it means to hurt. I know what it means to be on the outside. And I know what it means to be a member of a group where you want to make a change but you feel helpless and powerless, and somebody's got to speak. So if I'm criticized, it makes me no difference whatsoever. And one large march is not going to be enough to change anything. If that march had been successful, Trump wouldn't be the President today. He wouldn't be the President today. How much time do I have, Mr. President?

FOLEY: 1:15.

CHAMBERS: Is this my third time?

FOLEY: I believe you have one more.

CHAMBERS: Okay, I'm going to put my light on. Trump got these silly women, and I emphasize silly women, to start speaking against Hillary Clinton; to speak against Hillary Clinton. He was a womanizer. He treated women like things and dirt, and if you watched him on his television reality show, you saw the disrespect and disregard he had for women. He has no respect or regard for black people, male or female. And I'm going to take issue with those things, whoever is a knowing or unknowing, witting or unwitting partner in seeing that those kind of things carry on. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Linehan.

Floor Debate  
January 28, 2019

---

LINEHAN: Thank you, Mr. President. Good morning, colleagues. I just want to point out that the debate conversation going on the floor right now is very important. First, I do appreciate all that Senator Chambers has done for the last, I won't say exactly the number of years, Senator, I'll let you come up with the decades. I'm probably closer to age to Senator Chambers than I am to Senator Cavanaugh, so he has, and I remember when there were no women in this Chamber. But I also have great admiration and appreciate very much that Senator Cavanaugh was willing to stand up this morning and take issue with some of what Senator Chambers said. It is a legitimate debate. We have moved forward. We're not-- it's a completely different world than it was when I graduated from high school in 1973. And I know that there are people that worked to make that possible and make it possible for me to be here and for Senator Cavanaugh and Senator Hunt and Senator Blood did, and I won't go through the whole list because there are several of us. But I also realize that what Senator Cavanaugh stood up and said has a lot of merit. That until we feel, and I think Senator Chambers would agree with this, until we feel like we can stick up for ourselves and stand our ground without somebody holding our hand, we're not completely seen as equal. So I appreciate the debate and I appreciate both of you willing to speak to this issue this morning. Thank you.

FOLEY: Thank you, Senator Linehan. Senator Chambers, your third opportunity.

CHAMBERS: Mr. President, Senator Cavanaugh, you haven't paid attention to things that I've said about Speaker Pelosi. Apply these words to what we're talking about now. [SINGING] You don't own me. Then what does it say? [SINGING] Don't tell me what to do; don't tell me what to say. That's what you should have hit me with. Do those words apply here? Then we would have had a greater depth of a discussion. I am not offended when people talk back to me. I want them to. People need, as Senator Linehan pointed out, to stand on their own feet, be unapologetic, and not need anybody's permission. I am not putting Senator Cavanaugh down for having spoken. I just think her words were not on target entirely. There are a whole lot of people who would swoop down on her office and say don't tell Senator Chambers we don't need help; don't tell him that women are doing things, or that the few in the Legislature can do everything, because that's not the case. Senator Cavanaugh, I have seen white women mistreated and their children, females mistreated, and white men never did anything. You all are going to make me start talking about the things that I've done. I saw where-- well, see, I often say the arc of history is long. I saw that universities are mistreating athletes, especially females, but I got a bill passed where any athlete who is given what they call a scholarship, I call it a contract of indenture, was injured, that scholarship could not be taken, and that athlete would have to be allowed to make it all the way through school and the university had to have an insurance program, the equivalent of Worker's Comp, and I was fought tooth and nail by the university but I won because I don't quit. And I threatened them that I'll get them over here if you don't let this go. And that's what I'll do. That's what politics is about. Two young female gymnasts were injured and their scholarships were lifted. Their parents couldn't do anything. None of the women in the Legislature did

Floor Debate  
January 28, 2019

---

anything. No white men spoke up. Nobody did. And I was waiting for somebody to make use of the bill that I had gotten enacted into law. Nobody did. So I went to the Attorney General and I called it to his attention, then I wrote a public statement. The Attorney General pointed out to the university, not this Attorney General, Robert Spire, that what I said was right. The law prohibited what he did. And here's what the dumb male coach said-- we need those scholarships, the two girls-- and that's what he called them-- the two girl cannot perform, so we need to take those scholarships and give them to some others and that will put him in direct violation of the law. When I made it public, speaking out for white girls, you know what happened? Their scholarships were reinstated. One of them did not want it, did not want to continue at the university when it would treat her that way after she had given her all on the gymnastics team then got injured. I never heard from either of the girls. Never heard from their families at all, but that's not why I do what it is that I do.

FOLEY: One minute.

CHAMBERS: They didn't even know that there had been an intervention on their behalf until they heard on the radio that the university was going to reinstate their scholarships. You know what I could have done? I could have said, now, white people have abused black people, if they're going to hurt their own, so much the better. But the ones that were being harmed were not the ones that had harmed us. And I'm not comfortable in the presence of anybody suffering, and you all ought to be glad that I will speak up even when those that I am speaking for don't understand what it is that's being said and the necessity for it. I know what I know. I have a standard of conduct that I have adopted for myself. And if you ever need my help and you get it, all of a sudden you're going to be very pleased because that has happened on more occasions than I can enumerate or that I choose to enumerate.

FOLEY: Time, Senator.

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Wayne, you are recognized.

WAYNE: Thank you, Mr. President, and members of the Legislature. I am not going to weigh in on the debate that is going on between Senator Cavanaugh and Senator Chambers, although I think it's very important. But there was a couple of words of equality mentioned a couple of times, and I just want to express-- last week riding in the elevator at the Cattleman's dinner, an individual got on an elevator with me and asked me if I was serving the party. I said, serving? And then he went back and said, well, serving or cooking? At that point I have a couple options. I can knock him out. I can walk away, or I could figure out another way. Now I represent too

Floor Debate  
January 28, 2019

---

many people to choose option one. Winding up on the front page of the Omaha World-Herald or Lincoln Journal Star for knocking out this young-- or older individual probably wasn't the way my constituents would have wanted me to be on the front page. Walking away is a silent acceptance that was OK. So that wasn't an option either. But not too many people in here get to go to these dinners that we all go to or lunches that we all go to and are looked at as the help and nothing more. But every time I walk to a dinner, even sometimes out in this Rotunda, they don't see me as a state senator, they see me as a stereotypical black or brown individual who is working. And I'm not putting down the workers. But this just happened last week. So I immediately go in and find my senator badge and I run into Senator Linehan, a couple other people, and I'm kind of just dashing from them real quick, not to be rude, but to find the individual to introduce myself as Senator Wayne. Yes, he had a dumb look on his face. Yes, I walked away. But this still happens today. And the reason I got up and I'm speaking about this issue is, we as a body cannot just look at the present anymore. We have to look at the historical context in which we find ourselves today in this body, whether it's through a female lens or whether it's through a black or brown person. And if we don't do that as a body on bills, particularly dealing with issues of those categories or bills around housing or bills around anything that's economic that if we don't understand the historical context of how we got here and how many of us are still left behind, we are failing. If we don't support urban schools, we are failing. If we don't support urban development where there has a red lining which we can show you still has the same impact by our government, including us, we are failing. The State Capitol from 1883 to 1900 was built by convict leases which were free slaves who we recaptured using a felony law and sold them to local businesses, including a contracting firm for our State Capitol. We can go back and forth, I know Ms. Cavanaugh and Senator Chambers-- Senator Cavanaugh and Senator Chambers agree on probably 99.9 percent of the same issues. But I'm speaking to the rest of the body, this is the year for us to show up, this is the year for us to talk about--

FOLEY: One minute.

WAYNE: --true property tax relief, that is fine. What is important in my community is equality and equity, just as much as property tax relief. And I'm willing to work on property tax relief with anyone out here if you're willing to work on some of the key developments to provide equity for my community. There is no reason we have some of the communities we have in this great nation right here in the state of Nebraska. And it's time this year, we change that. Thank you, Mr. President.

FOLEY: Thank you, Senator Wayne. Senator Friesen, you're recognized to close on LB79. He waives close. The question for the body is the advance of LB79 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

ASSISTANT CLERK: 35 ayes, 0 nays on the advancement of the bill, Mr. President.

FOLEY: LB79 advances. Next bill, Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB82 introduced by Senator Friesen. [Read title.] The bill was introduced on January 10 of this year, referred to the Transportation and Telecommunications Committee. That committee placed the bill on General File with no committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator Friesen, you are recognized to open on LB82.

FRIESEN: Thank you, Mr. President, and members of the Legislature. LB82 is a bill relating to the Nebraska Department of Transportation. It was advanced unanimously by the Transportation and Telecommunications Committee. This bill would streamline certain DOT processes regarding the Board of Public Road Classification and Standards and would support the concept of practical design to allow more flexibility in the design of Nebraska roads. With regard to streamlining and the Board of Road Classification and Standards, some reporting requirements from cities, counties, and the DOT are no longer considered necessary. The one-year and the six-year road plans and the detailed financial information regarding the use of the road funds still needs to be prepared by political subdivisions. However, they will no longer be submitted to the board. Those plans will simply need to be on file and available for public inspection at the city or county headquarters. In addition, the cities and counties will have to certify to the board that those reports have been prepared. If certifications are not filed, the DOT can withhold road money from the subdivisions. Practical design is a concept using a practical engineering approach to reduce the cost of construction projects by allowing more flexibility in road design. And I'll give you an example. There are 22 bridges that go over Interstate 80 between Lincoln and Grand Island that by today's design standards are considered too narrow. They would be basically functionally obsolete. The standards would require us to widen the bridges by less than two feet, which would cost us more than \$2 million, but would not add much in terms of safety. Our current law makes DOT file 22 separate applications, have 22 hearings to relax the design standards on those bridges. LB82 would allow DOT to have one hearing the next time that the same issue arises in a variety of construction projects. This legislation does not eliminate design standards, but allows DOT, cities, and counties to use their past experience and proven design standards to make decisions that reflect the needs of a particular road. And there is no chance that safety considerations will take a backseat to other factors. I have confidence this merely gives our state the opportunity to stretch our finite dollars to be able to complete much needed road construction and maintenance needs. I hope you will advance LB82 to Select File. I will be happy to answer any questions. Thank you, Mr. President.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

FOLEY: Thank you, Senator Friesen. Debate is now open on LB82. Senator Chambers.

CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask Senator Friesen a question or two about the bill.

FOLEY: Senator Friesen, would you yield, please?

FRIESEN: Yes, I would.

CHAMBERS: Senator Friesen, some of these bridges, you said, functionally they are obsolete, some are too narrow. Did you mean based on federal standards or because they really are too narrow, considering the traffic that they have to carry?

FRIESEN: Both. It is the federal standards now would require them to be built wider. And in today's equipment out in my county, for instance, there are bridges that are probably too narrow for equipment, because there are numerous crossings across the interstate. So every few miles they did put a wider bridge that does meet those classifications. But if they had to upgrade all these narrow bridges, I think before they would upgrade them, they would just take them completely out.

CHAMBERS: Based on what I am hearing, I don't really understand completely what the bill does. Let's say that there are 10 such bridges, just for the sake of discussion. Right now, whose standards must those bridges comply with? The federal or the state?

FRIESEN: If they are using federal funds, I'd assume they would have to comply with federal standards, but they can also hold a hearing on each one of those bridges to change that. So this would allow them to hold one hearing on all 10 bridges and decide if they want to meet that lesser classification.

CHAMBERS: But if they are going to leave the bridges in place, they would have to meet those standards that exist. I am not talking about the number of hearings.

FRIESEN: Yes, those standards, if a bridge would-- I don't know how to put this, like if down the road they plan on widening Interstate 80 to Kearney eventually and there were three lanes on each side, those bridges all need to be worked on in order to let that happen. When you upgrade those bridges, they would have to hold hearings on them whether or not they would be required to hold them to the federal standard, and I think the way I understand it, they could do it in a lesser but then they have to hold hearings on each separate bridge. Here they will still hold

Floor Debate  
January 28, 2019

---

hearings, but it will be on a number of bridges, so there will be one hearing instead of 10, and yet they can still maintain that bridge in its current width instead of widening it 2 feet, they can allow that bridge to stay there.

CHAMBERS: Would all 10 of the bridges be considered in that hearing, or would those who were concerned about this be able to have a hearing on one bridge, and whatever is determined for that bridge would automatically apply to the other nine? Or must each of those bridges be considered?

FRIESEN: Well, I think they would hold a hearing, and in my area at least, the bridges I've seen were all built to the same standards and so I assume all the bridges would be-- the hearing would be at once, but you could go testify on certain bridges whether or not you wanted that. But it would not be a separate hearing on each bridge.

CHAMBERS: So nine bridges would not be the subject of a hearing, but only one of them. Suppose that bridge was found to be out of compliance. Then the other nine would automatically be deemed out of compliance too? It can't be a one-way street.

FRIESEN: Okay. So at the hearing, the Board of Classifications could decide that those old standards would be okay and they wouldn't have to meet the new standards. And this hearing, if they did it, if there were 10 bridges that were identical, there would be one hearing on those 10 bridges who are identical, they would be identified and then they could decide on those bridges that they listed whether or not those standards could be relaxed from the current federal standard.

CHAMBERS: Would information have to be offered on the other nine? What I'm trying to get at, is this bill going to say a hearing on one bridge does away with the necessity to have a hearing on the other nine?

FRIESEN: No.

CHAMBERS: Okay. Now, what standards would have to be met under this bill?

FRIESEN: Under this bill they could use the standards that the bridges were built under and they wouldn't have to build them to-- or rebuild them to meet the new federal standards.

CHAMBERS: And would the federal government agree to that?

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

FRIESEN: Yes, I believe they would.

CHAMBERS: You said they would?

FRIESEN: Yes.

CHAMBERS: Okay. And if I have other questions, I will talk to you because you know the area of interest that I have, and staff will be available, too, but I wanted that part on the record. Thank you.

FOLEY: Thank you, Senator Chambers and Senator Friesen. Senator Friesen, you're recognized to close on LB82. He waives closing. The question for the body is the advance of LB82 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all vote who care to? Record, please.

ASSISTANT CLERK: 41 ayes, 0 nays on the motion to advance the bill.

FOLEY: LB82 advances. Final bill, Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB190, introduced by Senator La Grone. (Read title.) Bill was introduced on January 11; referred to the Transportation and Telecommunications Committee. That committee placed the bill on General File with no committee amendments.

FOLEY: Thank you, Mr. Clerk. Senator La Grone, you are recognized to open on LB190.

La GRONE: LB190 is the Department of Transportation's cleanup bill. Specifically it accomplishes six things. First, it allows for the repeal of an obsolete regulation relating to the promotion of aviation. Second, it eliminates rule and regulation authority given to the department over aviation and insurance notice forms for two reasons. One, the department doesn't have insurance expertise and therefore has no expertise to regulate notice of insurance. And second, the current requirement is unenforceable. Third, it eliminates references to rules and regulations relating to blood alcohol reports so that regulation can be accomplished through a guidance document. Let me be very clear on this. This does not have any impact on the public's ability to get the information. The statute requires that the information be made available to the public. It merely changes which document the process for getting that information is contained in from a rule or regulation to a guidance document. Fourth, it revises the rules and regulation authority given to the department that the blood alcohol content reporting requirements can be published in a manner deemed appropriate by that department instead of requiring rule and regulation

Floor Debate  
January 28, 2019

---

authority. And again, this is the same thing, it does not change the availability of that information, merely where the process is contained. Fifth, it eliminates the requirement for school bus loading signs to have their own regulation. Instead, incorporates that sign in the department supplement to the federal manual on uniform traffic control devices. And sixth, it outright repeals an outdated section that requires the regulation of school bus loading signage already governed by regulation pursuant to 60-6,118. And just a little background. This bill is really an outgrowth of the rules and reg process update that Senator Mello and Senator Watermeier undertook in 2016 that allows instances where something does not impact the rights of the public, but merely is binding on the agency to be accomplished through a guidance document rather than a rule or regulation. And with that I would urge your green vote on LB190. Thank you, Mr. President.

FOLEY: Thank you, Senator La Grone. Debate is now open on LB190. Senator Morfeld.

MORFELD: Thank you, Mr. President. Colleagues, I do have a few different questions on this bill, particularly since last year we had a bill from Senator La Grone's predecessor, Senator Murante, that also eliminated a lot of "shalls" to "mays" which always kind of piques by interest a little bit because I learned the importance last session of the difference between a "shall" and a "may." So that's my primary concern. And I did appreciate Senator La Grone's introduction, because that did gave a little bit of context, but I would like to put more context on the record. So, if Senator La Grone would yield to a question, I think we can do that.

FOLEY: Senator La Grone, would you yield, please?

La GRONE: Yes, sir.

MORFELD: Thank you, Senator. So, why are we making it-- why are we-- particularly for the DUI provisions, why are we going from a rule and regulation to a guidance document? Can you tell me why and then the difference between the rule and regulation? I mean, I know what a rule and regulation is, but why a guidance document? What is a guidance document? And is that going to be available to the public?

La GRONE: Yep. So I am going to start off with a broader explanation and then get into the specific on why in this instance and on your time will try to be rather quick about it. So, generally, a guidance document is appropriate where there is something that doesn't impact the rights of the public, but needs to be binding on an agency. And that previously didn't exist in our APA process, it came into being in 2016. In this specific instance, the rights of the public, of the information being publicly available, are contained in the statute that govern the reports, that they are not part of the rule or reg. Those rights aren't gained through the rule and reg, they're

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

from the statute. And so this changed-- since this regulation is simply binding on the agency, it's better to do through a guidance document because it allows more flexibility. So, in our changing technological environment and how-- if the best way to communicate that information changes, this would allow the agency to address that need quickly rather than going through the entire rule or reg process to change something that has no impact on private rights of individuals.

MORFELD: Thank you, Senator. And just a follow-up question or two on that. So, I hear more flexibility, and that sounds good from an administrative point of view, but one of the things I like about the rules and regs process is it requires public feedback, comment, and transparency. And so, my concern is, particularly with guidance documents, yes, it may be more efficient, but oftentimes efficiency is at the cost of transparency and public input, particularly on something-- and I will be honest with you, I don't know about all the DUI guidelines and everything, so I need to dig into that a little bit deeper after today, but the guidance document seems-- it seems to me like the process by which they're going to be formulating the guidance document will be less transparent, is that true?

La GRONE: No, it's actually not.

MORFELD: Okay. Okay.

La GRONE: So, number one, one thing I want to make clear again is the public's right to this information is contained in the statute. It is not contingent on the rule or regs, so the public has every right to this information. So, that is going to require the department to make it available. Now, if you look at 84-901.03, that is the statute that governs the process for guidance documents, and it makes clear what is and is not appropriate for a guidance document. And then at the end, it gives a right to any person to request in writing that the agency revise or repeal a guidance document or convert it into a rule or regulation. And then there is a process set up whereby the department has to respond to that request. And that is for the specific reason that you mentioned of, let's say, a department goes rogue, which I don't think would happen, and starts throwing stuff in the guidance document that shouldn't be in guidance documents. There is a process to correct that.

MORFELD: Okay. This has been very informative. Thank you, Senator La Grone.

FOLEY: Thank you, Senator Morfeld and Senator La Grone. Before proceeding with debate, I'll mention that the cookies you received this morning, members, are from Senator Arch in honor of his new grandson, Daniel Cameron, who was born yesterday to Senator Arch's son and daughter-in-law, Cameron and Liz Arch. Congratulations, Senator Arch. Continuing discussion, Senator Pansing Brooks.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

PANSING BROOKS: Thank you, Mr. President. I have some more questions for Senator La Grone, if you please.

FOLEY: Senator La Grone, would you yield, please?

La GRONE: Happily.

PANSING BROOKS: Thank you. Again, I heard your explanations to Senator Morfeld, and I guess I am interested in, do you have copies of what kind of guidance document might be used or do you have examples of it?

La GRONE: So, I have information on what-- how the process would not change for requesting it, is that what you are asking for?

PANSING BROOKS: I just would like to see examples, yes.

La GRONE: Yeah, I can get that passed out.

PANSING BROOKS: Is it because the rules and regulations are far too cumbersome?

La GRONE: No, the rule or reg actually basically just mirrors the statute, and then says contact the department if you want this information because the statute gives you a right to this information.

PANSING BROOKS: Okay. And where does it say that that information is publicly available? I mean, it says shall be-- that the information about somebody who has been drunk driving-- it says may be released or disclosed as provided by the department, so where is it that they are bound to reveal it? What part of statute--

La GRONE: Are you referring to 60-6,102?

PANSING BROOKS: Yes, I am.

La GRONE: Yeah, so if you look at the end of it, it says: "such information, including the identity of the deceased any such amount of alcohol or drugs, shall be public information and may be released" pursuant to x, y, or z. The "shall be public information" requires this

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

information be released. The "may" is referring to the process, but the phrase "shall be public information" requires that the information be released to the public.

PANSING BROOKS: Okay. Such information, that sounds to me like it's a-- it says it's a report. So is that individually listed and is that subject to-- I mean, I would like to see where it is. I don't think that that alone states that the identity of the deceased and all the information shall be revealed.

La GRONE: I would simply disagree on that point. If something is required to be made public, they are going to have to reveal it. I believe the statute, further up in the statute gets into how it is included in the report.

PANSING BROOKS: I think it-- to me it's a question of whether it could be aggregate information or whether it could be released in a format that just says, oh, 15 people had drunk driving, six of them-- it could be demographic type of information rather than specific information that would be necessary for a law case or for-- I'm sure there are a lot of reasons why this information needs to be public.

La GRONE: I would fundamentally disagree with that. It says the identity of the deceased and any such amount of alcohol, the specific identity shall be public information. That's going to be an individual case.

PANSING BROOKS: Okay. And can you respond once more why you think that it shouldn't be in the rules and regs of the department?

La GRONE: Absolutely. So twofold: number one, more general, and try to be quick. And then the one specific in this instance. Generally, when we are dealing with something that has no effect on the rights of the public and is simply binding on the agency, the structure that Senator Mello and Senator Watermeier created in 2016 says the appropriate place for that is a guidance document. So that they can-- the agency can be more responsive to how the public gets that information. In this specific instance, it's because, obviously, how we communicate in this technologically advanced world is changing rapidly, this would allow the department to be able to update how they provide that information in a much more quick process than going through the rules and reg process. And again, if it is something that someone thinks should be done according to a rule and reg, there's a process for that petition to be made as well.

PANSING BROOKS: Okay. What about Section, line 15, Section 16-6,107--

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

FOLEY: One minute.

PANSING BROOKS: --where it says the-- thank you --the Department of Transportation may adopt and promulgate the rules which provide.

La GRONE: Sorry, which section are you on again?

PANSING BROOKS: That's under 60-- I think what I'll do is talk to you off the record. But I have some concerns about this right now. And I just want to talk to you more off the record to make sure that what is truly intended here and what's happening. Thank you so much, Senator La Grone. Thank you, Mr. President.

FOLEY: Thank you, Senator Pansing Brooks and Senator La Grone. Senator McCollister.

McCOLLISTER: Thank you, Mr. President. I also have a few questions for Senator La Grone if he would be willing to answer them.

FOLEY: Senator La Grone, would you yield again, please?

La GRONE: Absolutely.

McCOLLISTER: Great. Just so I understand, I would guess that the department brought this bill to you for introduction?

La GRONE: Yes.

McCOLLISTER: Okay. What was their prime motivation to bring this bill? It seems rather limited in scope, is it not?

La GRONE: It is. It is to cleanup, basically, areas where the rules and regs are under the current-- well, to clean up a number of provisions. This specific one where the rule-- it would be better accomplished through a guidance document rather than a rule or reg.

McCOLLISTER: So what you're saying is, it's not just limited to state statute 60-6,102 and 103, but it also has a direct impact on the rules and regulations.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 28, 2019

---

La GRONE: No, it deals with the required rules and regulations in those sections.

McCOLLISTER: I understand. Well, I'm glad to hear that. I think you have done a nice job answering the questions. So I thank you for your answers.

FOLEY: Thank you, Senator McCollister and Senator La Grone. Senator La Grone, you're recognized to close on the advance of your bill.

La GRONE: I would simply urge your advancement of LB190 and I can answer any other questions if anyone has any questions on Select File.

FOLEY: Thank you, Senator La Grone. Members, you have heard the debate on LB190. The question for the body is the advance of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

ASSISTANT CLERK: 36 ayes, 0 nays on the advancement of the bill, Mr. President.

FOLEY: LB190 advances. Mr. Clerk, items for the record.

ASSISTANT CLERK: Mr. President, I have notice of committee hearings from the General Affairs Committee, the Education Committee, the Banking Committee, and the Agriculture Committee. New resolution: LR17 by Senator Scheer celebrates the 36th anniversary of Nebraska's sister state relationship with Taiwan. Have a confirmation report from the Agriculture Committee. The Ag Committee also reports that LB61, which was referred to them, has been placed on General File with amendments. Performance Audit Committee has selected Senator Geist as Chair and Senator Crawford as Vice Chair. Enrollment and Review reports that LB1, LB2, LB3, LB12, and LB26 have been carefully examined and reviewed and placed on Select File. Series of name adds: Senator Kolterman to LB104; Senator Lindstrom to LB139 and LB153; Senator Kolterman to LB252; Senator Halloran to LB314 and LB372; Senator Brewer to LB382; Senator Halloran to LB483; Senator Walz to LB594; Senator Halloran to LB677 and to LR5CA.

And finally, Mr. President, Senator Lindstrom would move to adjourn until Tuesday, January 29, 2019, at 9:00 a.m.

FOLEY: Members, you heard the motion to adjourn until tomorrow morning. Those in favor say aye. Those opposed say nay. We are adjourned.