

Transcript Prepared by Clerk of the Legislature Transcribers Office
Floor Debate February 24, 2021

HILGERS: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-second day of the One Hundred Seventh Legislature, First Session. Our chaplain for today is Senator Halloran. Please rise.

HALLORAN: Good morning. Scriptures tell us Jesus was praying in a certain place. And after he had finished, one of his disciples said to him, Lord, teach us to pray as John taught his disciples. Jesus said to them, when you pray, say, our father, who art in heaven, hallowed be thy name, like kingdom come, thy will be done on earth as it is in heaven. Give us this day our daily bread and forgive us our trespasses as we forgive those who trespass against us. And lead us not into temptation, but deliver us from evil, for thine is the kingdom, the power, and the glory, now and forever. Amen.

HILGERS: Thank you, Senator Halloran. Senator Aguilar, you-- you are recognized for the pledge.

AGUILAR: I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

HILGERS: Thank you, Senator Aguilar. I call to order the thirty-second day of the One Hundred Seventh Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

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

CLERK: Natural Resources offers two confirmation hearing reports. Enrollment and Review reports LB323, LB106, LB113, LB149, LB174, LB302, LB148, LB253, LB503, and LB532 to Select File, some having Enrollment and Review amendments. General Affairs Committee, chaired by Senator Briese, reports LB152 and LB415 to General File, LB70 and LB312 to General File with amendments. That's all that I had, Mr. President.

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HILGERS: Thank you, Mr. Clerk. Senator Moser would like to recognize Dr. Michelle Sell of Columbus, who is serving as our family physician of the day. Dr. Sell is seated under the north balcony. Please rise and be recognized by your Nebraska Legislature. Turning to the first item on the agenda, Mr. Clerk.

CLERK: Mr. President, LB106A is a bill to appropriate funds to implement LB106. Senator Friesen has presented his bill on a couple of occasions. I do have a motion on the bill, Mr. President. Senator Wayne would move to indefinitely postpone LB106A.

HILGERS: Senator Wayne, you're recognized to open on your motion.

WAYNE: Thank you, Mr. President. Colleagues, I'm not going to keep this motion up there, but I think it's important for especially our new members and-- and colleagues to have a conversation about a IPP motion and-- and how it works and what's the purpose of it. And so would Senator Flood answer any questions?

HILGERS: Senate Flood, would you yield?

WAYNE: I just saw him on the floor.

HILGERS: I do not see Senator Flood on the floor, Senator Wayne.

WAYNE: Would Senator Friesen yield to a question? Senator Flood is here, available. I would like Senator Flood to yield to some questions.

HILGERS: Senator Flood, would you yield to a question?

FLOOD: Yes.

WAYNE: Senator Flood, this is just a conversation, really, because we've been kind of moving kind of quickly and I just want to get people educated on IPP motions, particularly in the committee process. And with your experience here, it was between you and Senator Lathrop, as some of our more elders as far as the body is concerned. So what is the purpose to you for an IPP motion in a committee?

FLOOD: Well, just by disclosure, I'm not an expert in IPP motions. I did IPP one of my bills earlier this session. But, you know, I think the committees, in my opinion, have a choice to make when they're considering bills and IPP motions, to me, should be used if the committee doesn't believe the bill is moving forward; it signals to the public that there's not enough support in the committee to move

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it; the introducer hasn't asked for it to be held or no one's agreed to hold it; and it prevents that policy from being amended into another bill without a elevated vote standard on the floor. So from my vantage point--

WAYNE: So what are the benefits of the IPP? You kind of mentioned it. Just want to make sure especially our freshmen understand the benefits of an IPP.

FLOOD: What are the benefits?

WAYNE: Yes, what are the benefits of the IPP?

FLOOD: Well, I-- I think if the committee is not inclined to move that policy, it sends a message to the body that not only did the committee consider it and fail to take a vote to advance it or not advance it, but just the opposite; the committee felt strongly enough that the bill should be indefinitely postponed, which is something that happens on the floor quite often. And I think the other benefit to it is that it respects the committee system by elevating the standard and reducing the number of bills that can be used mischievously for policy purposes that are inconsistent with what the committee actually wants done.

WAYNE: What are potentially the potential negative consequences of IPPing a bill in a committee?

FLOOD: One of the negative consequences is that sometimes the introducer is frustrated because they obviously felt that it was an important enough matter to bring it to the full Legislature. I think that one of the negative consequences to indefinitely postponing a bill is that--

WAYNE: So--

FLOOD: Well, I don't know. I haven't really thought about it. I think it's in the rules for a reason. And used appropriately by committees, a motion to indefinitely postpone a bill signals to the general public where the Legislature is on a specific matter.

WAYNE: So in the four years that I've been here, we really haven't had any-- I can't remember being on a committee where we IPPed, but I noticed lately a couple of committees are IPPing bills. Why do you think that's happening more now?

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FLOOD: Well, I think committees, are-- you know, are discussing the bills. I made a motion to IPP my own bill because I didn't want the public to think that it was going to continue after the testimony that I heard from those that appeared. I-- in my practice before, I-- I certainly made motions to IPP bills, and it's completely within the rules, and I think it's the mark of a committee that's thoughtfully considering the matters before it.

WAYNE: And do you think that there should be some type of notice to the introducer of the bill before a committee IPPs a bill?

FLOOD: Well, I think that's a dangerous slope, if you require notice, because then the next time you'll want notice 24 hours before you IPP somebody's bill on the floor. I mean, it's part of the process. I do think that members of the Legislature, if they care about a bill, should talk to the committee Chair and the members of the committee, if they feel strongly about it, and have that conversation. In some cases, the introducers will say, I'm not really interested in that bill being pursued. And you have to remember, I've only been on a committee-- this is the beginning of my third year, so I'm also learning the ways of committees. And you have more experience on a committee than I do, so I'm not really the one that should be up here lecturing anybody about what we should be doing.

WAYNE: No, I'm just having a-- no, and I appreciate and thank you for answering some questions. It's not a lecture. I just-- I think it's important that people understand that we haven't had a lot of opportunity last session to work on bills because we were suspended for COVID, and then this session we are operating in unusual times where we are in all-day committee hearings and we don't get the actual opportunity to work a bill in the committee because we're here in all-day committee hearings. We're not sitting on the floor and interacting with each other for three hours a day on the floor, so even having conversations with committee members of other committees seems very hard. Would you agree with that?

FLOOD: I do think it's a different environment. That said, you know, I really appreciate the time we have on the floor each morning. I think the way the session has started, from my vantage point as a new senator, has allowed me to make connections and visit with the people I want to visit with. I understand where you're coming from on that. I think that if you have bills in a committee, you-- and you care about them, you need to be talking to the members of that committee. I mean, from my standpoint, that's what I plan to do on my bills. But I do grant you that it is a far different environment that I've been used to and in a-- in a few ways, I like it. I think that it gives me

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a chance to focus as a member of the Legislature on the subject matter in front of me and do it not just for a couple hours a day but all day.

WAYNE: Thank you, and thank you for answering some questions. Colleagues, the reason why I had this conversation is because obviously Senator Flood was here before I was here, so I was trying to get a feel of the culture before I was here. But for the last four years that I've been here, IPP in the committee was hardly-- wasn't used at all. That's-- I think there is a time and a place for an IPP, and I agree with Senator Flood on when that time and when that place occurs. But I do think as committee Chairs, we need to be very careful walking down this path of IPPing in the committee. We need to be very careful, especially when we can't-- we don't have a chance to interact with the committee to sway one or two votes to not IPP it because we're in committee hearings all day, but more importantly, the effects that it has. I can make the argument that if you IPP a bill this year, that bill couldn't come back next year. Although it's a new bill, we're in the same session. I can make an argument that we are not allowing people to be heard and chances to amend their bill because they're in all-day committee hearings. So even if something happened on the floor and we wanted to bring a substantially similar amendment, that threshold now becomes 30 instead of 25 to amend it to a bill. There are some reasons you want to do that, but I think with COVID and all-day committee hearings and the inability to speak to individual committee members, Chairs have to make sure it happens. And here's what happened in Urban Affairs. In Urban Affairs we had a vote that would have come out 4-3. I know what that means when it comes to the floor. Rather, I asked the "mationer" and the seconder to rescind their motions so I could go talk to that senator to see if he can persuade one or two more people and maybe work with an amendment to correct this bill to get one or two more people so it has a stronger opportunity on the floor. I thought that's what we do as Chairs, but I could be wrong. But what I did hear and what I am hearing from this body is we don't have to give notice, that we don't necessarily have to be civil, because I think that's a part of being collegial, is providing an opportunity for people to work on their bills. But if we're taking that approach, I'm OK with that.

HILGERS: One minute.

WAYNE: I'm OK with whatever rules we decide to operate on. But I think as committee Chairs, and I'm talking to the committee Chairs, we need to be very careful about IPPing bills in committee hearings at the committee level without giving the people the opportunity to

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work on their bills. I think it's very insensitive and I think it-- it sends the wrong message during this time. With that, Mr. Chair, I will withdraw my motion to indefinitely postpone. Thank you.

HILGERS: Without objection, the motion is withdrawn. Turning to LB106A, Senator Friesen, would you like to take a second to refresh us on this bill?

FRIESEN: Thank you, Mr. President. Again, LB106A is just the A bill that follows LB106, deals with the DMV and their process to replace a software program. So I appreciate everyone's support on this bill. Maybe we can get it moved today. Thank you, Mr. President.

HILGERS: Thank you, Senator Friesen. Debate is now open on LB106A. Senator Wayne, you're recognized.

WAYNE: Is it me? Oh, thank you. Again, I was just talking to Senator Flood off the mike. There was no malice in this when I had this conversation. But I just-- I do think it's important we understand the rules. And so the other rule that I left out for committee Chairs to understand and committee members to understand, that a committee can also reconsider any IPP vote, or actually any vote prior to it being reported out. And if it is reported out, the committee can still revive that bill as long as it's within eight days after being reported out. So what I'm telling committee members is we still have a chance to go to senators, talk to them, and make sure that if-- if the bill is dead, if there's no way that you can kick out a \$50 million fiscal note or it's clearly facially unconstitutional and it can never be saved, which I don't agree with. Senator Groene and I had a bill last year, micro-TIF, that on its face the first day was 100 percent unconstitutional. And we spent the time over COVID break, his staff and my staff working together, to figure out the concept. So even if the bill is blatantly unconstitutional, I just feel you have a duty to the communities that they represent, being a part of a state senator system, to work with those individuals to try to come up with a solution, and we did, and it actually has pushed Omaha, Senator Groene; it's pushed Omaha to now figure out how to do TIF projects for \$250,000 and above instead of the \$500,000 because of that-- that bill that Senator Groene passed. My point is we talked a lot about being civil and collegiality at the beginning of this. I don't know if the IPP is that big of a deal because there's another rule, a different IPP that I-- I like to use, that I was accused of being-- not being civil. And actually, it was Senator Groene's bill that I did it on. And everybody said the special IPP can only-- shouldn't be used in those situations un-- unless it's extraordinary. And I was like, the rule is the rule. So I'd just like the body to

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figure out how to operate and be consistent. And I know it's 9:23 and we got committee hearings, so thank you, Mr. President.

HILGERS: Thank you, Senator Wayne. Mr. Clerk for items.

CLERK: I do, Mr. President. Thank you. Your Committee on Transportation, chaired by Senator Friesen, reports LB344 to General File with amendments. And Urban Affairs Committee, chaired by Senator Wayne, reports LB218 to General File with amendments. Mr. President, announcements that the Government Committee will have an Executive Session this afternoon after their hearing, Government Committee, this afternoon, Exec Session, and then General Affairs will have an Executive Session at 12:30 today in Room 1301, General Affairs at 12:30. Mr. President, a series of name adds: Senator Sanders to LB5; Slama, LB7-- LB167 and LB188; Halloran, LB300; Day, LB396; Vargas, LB415; McDonnell, LB474; John Cavanaugh, LB474; Gragert, LB512; John Cavanaugh, LR2CA. Albrecht would like to withdraw her name from LB250. Mr. President, Senator Linehan would move to adjourn the body until Thursday morning at 9:00 a.m.

HILGERS: Thank you. Colleagues, you've heard the motion. All those in favor say aye. Opposed say nay. We are adjourned.