

January 18, 1990

LB 259, 981, 982, 983, 984, 1195-1219
LR 242-243

CLERK: Mr. President, I do, thank you. (Read LBs 1195-1219 by title for the first time. See pages 378-83 of the Legislative Journal.)

Mr. President, two new constitutional amendments. (Read LRs 242-243 by title for the first time. See pages 383-88 of the Legislative Journal.)

Mr. President, Government Committee gives notice of hearing for January 25, signed by Senator Baack. Banking Committee, whose Chair is Senator Landis reports LB 983 to General File, LB 984 to General File, LB 981 General File with amendments, LB 982 General File with amendments. (See pages 388-90 of the Legislative Journal.) That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you, Mr. Clerk, proceeding to Select File, LB 259.

CLERK: Mr. President, the first order of business on 259 are Enrollment and Review amendments.

SPEAKER BARRETT: E & R amendments. Senator Withem, would you handle the E & R amendments on 259.

SENATOR WITHEM: Yes, beings our E & R Chairman is too busy at the moment, I'll be happy to move that the E & R amendments to 259 be approved.

SPEAKER BARRETT: Thank you, sir. Any objection? Any conversation? Seeing none, those in favor of the adoption of the E & R amendments to 259 please say aye. Opposed no. Ayes have it, carried, they are adopted.

CLERK: Mr. President, the first amendment I have to the bill is by Senator Haberman. (Haberman amendment appears on page 365 of the Legislative Journal.)

SPEAKER BARRETT: Senator Haberman. The Chair recognizes Senator Haberman.

SENATOR HABERMAN: Mr. President, members of the body, my amendment addresses the dates that are on page 3. It says that the act would commence February 1, 1991, pertaining to the filing of a petition. The bill will possibly go into effect in July and that would be about six months to give people an

January 19, 1990

LB 272A, 1117, 1135, 1172-1242
LR 242-245

PRESIDENT NICHOL PRESIDING

PRESIDENT: Ladies and gentlemen, welcome to the George W. Norris Legislative Chamber. We are happy to have with us this morning as our Chaplain of the day, Mr. Gerry Harris, who is the Executive Secretary of the Gideons, and lives in Lincoln. Would you please rise for the invocation.

MR. GERRY HARRIS: (Prayer offered.)

PRESIDENT: Thank you, Mr. Harris. We appreciate your coming and giving us the benediction, not the benediction, the invocation this morning. Roll call, please.

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

PRESIDENT: Thank you. Do you have any messages, reports, or announcements?

CLERK: Mr. President, I have a Reference Report referring LBs 1172-1242, and LRs 242-245, signed by Senator Labedz, as Chair of the Reference Committee. Senator Coordsen gives notice of hearing for the Business and Labor Committee for February 5 and January 29. (Re: LB 1135, LB 1117.)

I have a report of registered lobbyists for the week of January 18, and, Mr. President, an Attorney General's Opinion addressed to Senator Landis regarding LB 272A. (See pages 421-24 of the Legislative Journal.) That is all that I have, Mr. President,

PRESIDENT: We will move on, Senator Lamb, are you in position to handle that confirmation report. Okay.

SENATOR LAMB: Mr. President, and members, I would offer to the body the confirmation report for Mr. Myers.

CLERK: Senator, yeah, Lawrence Myers, the Nebraska Power Review Board.

SENATOR LAMB: Yes, Mr. Myers appeared before the Natural Resources Committee about two days ago and he is a reappointment. He was appointed, I believe, late last year and there was no opposition to his reappointment, and the committee voted unanimously to recommend that Mr. Myers be appointed to

January 31, 1990

LB 163, 187, 187A, 549, 551, 769, 962A
1059, 1066, 1094, 1101, 1212

SENATOR LABEDZ: A machine vote has been requested. All those in favor vote aye, all those opposed vote nay. Have you all voted? A record vote has been requested. Have you all voted? Record, Mr. Clerk.

CLERK: (Read record vote. See pages 598-99 of the Legislative Journal.) 32 ayes, 10 nays, Madam President, on the adoption of Senator Morrissey's amendment.

SENATOR LABEDZ: Senator Morrissey's amendment has been adopted. Do you have anything to read in, Mr. Clerk?

CLERK: Madam President, I do. Amendments to be printed to LB 163 by Senator Hefner. A new A bill, LB 962A by Senator McFarland. (Read for the first time by title.) Amendments to be printed to LB 163 by Senator Schimek; Senator Lynch to LB 769, LB 187, and LB 187A; Senator Labeledz to LB 1059. (See pages 599-606 of the Legislative Journal.)

Mr. President, Health and Human Services reports LB 551 to General File with amendments; LB 1101 General File with amendments...Health and Human Services General File with amendments, signed by Senator Wesely. General Affairs reports LB 1101 to General File with amendments, signed by Senator Smith. Banking reports LB 1066 to General File, LB 549 General File with amendments, LB 1094 General File with amendments, those signed by Senator Wesely (sic) as Chair. Finally, Madam President, Senator Pirsch would like to add her name to LB 1212 as co-introducer. (See pages 607-11 of the Legislative Journal.) That is all that I have, Madam President.

SENATOR LABEDZ: Thank you, Mr. Clerk. Senator Pirsch, would you like to adjourn us until tomorrow morning.

SENATOR PIRSCH: I would love to. I move that we adjourn until February 1st at nine o'clock in the morning.

SENATOR LABEDZ: Thank you, Senator Pirsch. We are adjourned.

Proofed by:

LaVera Benischek
LaVera Benischek

February 27, 1990

LB 445, 662, 854, 923, 945, 976, 1023
1042, 1057, 1062, 1146, 1147, 1151, 1212
LR 233

SPEAKER BARRETT: Thank you. Shall the house go under call? All in favor vote aye, opposed nay. Record.

CLERK: 18 ayes, 1 nay to go under call, Mr. President.

SPEAKER BARRETT: The house is under call. Members, record your presence, please. Those outside the Chamber, please return. Senator Lynch, please. Senator Nelson, please. Senator Haberman. All members return to your seats for a roll call vote. The question again is the indefinite postponement of the resolution. Mr. Clerk, please call the roll.

CLERK: (Roll call vote taken. See pages 998-99 of the Legislative Journal.) 17 ayes, 19 nays, Mr. President.

SPEAKER BARRETT: The motion fails. The call is raised. Anything for the record, Mr. Clerk?

CLERK: Mr. President, I do. Your Committee on Urban Affairs reports LB 945 indefinitely postponed, and LB 1057 indefinitely postponed, those signed by Senator Hartnett. Judiciary Committee reports LB 445 to General File; LB 854 to General File; LB 976 to General File; LB 1023, General File; LB 1042, General File; LB 1147, General File; LB 1212, General File; LB 1062, indefinitely postponed; LB 1151, indefinitely postponed, those all signed by Senator Chizek as Chair of the Committee. (See pages 999-1003 of the Legislative Journal.)

Mr. President, I have a series of amendments to be printed. Senators Lynch and Wesely have amendments to LB 923, Senator Conway to LB 1146, and Senator Scofield to LB 662. (See pages 1003-07 of the Legislative Journal.)

Mr. President, Senator Hall would like to announce that the Revenue Committee will meet at one o'clock this afternoon for their hearings as opposed to one-thirty. Revenue Committee, one o'clock, as opposed to one-thirty. That's all that I have, Mr. President.

SPEAKER BARRETT: We are back to the motion to advance the bill or the resolution. I have only one light. Senator Landis, would you care to....

SENATOR LANDIS: If we wish to run over it, I will be happy to

March 29, 1990

LB 187, 187A, 220, 1212

SPEAKER BARRETT: LB 187 passes. The A bill, Mr. Clerk.

CLERK: (Read LB 187A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 187A pass? Those in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: (Read record vote. See pages 1696-97 of the Legislative Journal.) 37 ayes, 4 nays, 7 present and not voting, 1 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 187A passes. LB 220, Mr. Clerk.

CLERK: Mr. President, I have a motion on the desk. Senator Hannibal would move to return the bill for a specific amendment.

SPEAKER BARRETT: The Chair recognizes Senator Hannibal.

SENATOR HANNIBAL: Thank you, Mr. Speaker and members of the Legislature. LB 220 is a bill that Senator Pirsch introduced originally. I have asked that my name be added to it and Senator Pirsch agreed. What I'd like to do today is ask you to return LB 220 for purposes of adding a bill and the bill is LB 1212 that was heard before the Judiciary Committee and was passed out of the Judiciary Committee with not only the thought, but even the approval of the Chair, I believe, and members of the committee that this bill become...that 1212 be amended into 220 so that we could pass it yet this year. LB 1212...well, LB 220 if you'll recall, deals with intensive supervision probation, deals with establishing a cash fund for the Supreme Court's administration to be able to collect fees for electronic monitoring devices and to collect fees for testing types of procedures provided that those people submitting to those tests and those electronic monitoring devices would be capable of paying those fees. LB 1212 is somewhat of a continuation, somewhat of a companion to this. What 1212 is doing is authorizing statewide intensive probation system that we have talked about under our discussions on corrections and on our discussions of prison overcrowding. It was one of the recommendations that came out of the select task force, select committee to look as an alternative to prison overcrowding to install an intensive supervision probation program. This LB 1212 sets up language that says this is a good program, it is

designed to divert some populations from incarceration into a highly intensive probation system. It allows for us to do this on a statewide basis and suggests that we look at criteria for probation on this kind of a level that be set up so that we can truly divert people and keep it fairly selective and keep the numbers of the ratios, probationers per staff person at a low level because of the intense nature of the probation. It also asks for us to track and record the kinds of cases and kinds of numbers of staff ratios that are in place on a semiannual basis and it will have a cost to it. However, the cost was appropriated as part of LB 1031 in the bill we passed early this morning that will set up the structure for computerization software and hardware and for some staffing. That has already been made a part of the main budget bill. This is adding language to try to show some specificity to what we are expecting out of this program. Senator Pirsch has agreed to this amendment. As a matter of fact, Senator Pirsch signed on to LB 1212 so that we had this kind of an arrangement set up, this being fairly friendly and be one that is a companion type of operation. I would be happy to respond to any questions any of you might have, but I'll leave that as my opening for now, Mr. Speaker.

SPEAKER BARRETT: Thank you. Discussion on the Hannibal motion, Senator Pirsch.

SENATOR PIRSCH: Thank you. I'd just rise to support this amendment. It does fit in with our theory that we can do some alternatives to incarceration. I'm glad that Senator Hannibal did mention that the appropriation, which some have alluded to as being significant, has already been approved in the deficit appropriation bill and this would simply add that method of alternative to incarceration to 220.

SPEAKER BARRETT: Senator Smith, please.

SENATOR SMITH: Thank you, Mr. Speaker. Could I ask a question of Senator Hannibal, please?

SPEAKER BARRETT: Senator Hannibal, would you respond.

SENATOR HANNIBAL: Yes.

SENATOR SMITH: Senator Hannibal, I was looking through the fiscal note as you were talking and I was expecting you to, and

maybe you did and I just missed it, I didn't hear you say anything about the fact that the fiscal note alludes to the fact that there is going to be an attempt to...for those people that are...that would receive the, I guess the ability to be placed on a probationary kind of a status with the surveillance program, to pay the costs of the program. Did you mention that at all? And that's mentioned in here, they talk about revenues, if revenues actually exceed expenditures and so on but it doesn't show, and you didn't mention that fact. Is that going to be a part of the program?

SENATOR HANNIBAL: I mentioned that that was part of LB 220 as it stands right now. We had that amended but it also was part of 1212. Yes, both of the bills and the total bill will allow for those people who are going to elect and are approved to go under electronic monitoring to, if they are adjudicated financially able to pay this, that they will pay for this monitoring service. It's not at all uncommon for as a condition of probation, that the courts will suggest that if you're going to go under electronic monitoring you pay for that on a daily cost. It's not at all uncommon for as a condition of probation you have some restitution involved as a condition of probation, you will repay some certain things or you do certain things. This is allowing the court to do the same thing for electronic monitoring and, as a matter of fact, for testing periodic and spontaneous unannounced testing for drug and alcohol while you're under this probation system if the court decides and you agree that you will pay for these things, then this law authorizes that to happen.

SENATOR SMITH: All right, so then very clearly, by adding this bill, LB 1212, to the existing bill that we have here, you're not adding any new costs. The costs have already been appropriated in LB 1031 and there is a possibility that some of those costs can be recaptured through charges to those folks that take advantage of that system as long as they are able to pay for it themselves. Is that a summary of what will happen?

SENATOR HANNIBAL: Yes, that is, although I wouldn't want to mislead you. There is going to be a significant General Fund expenditure of over, well, right at a million dollars...

SENATOR SMITH: In addition?

SENATOR HANNIBAL: No, the million dollars is part of 1031.

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LB 220, 1031, 1212

SENATOR SMITH: That's right, that's what I wanted to know.

SENATOR HANNIBAL: LB 1212 is setting up language that authorizes that an expenditure that we did authorize in LB 1031 and it sets up guidelines as to how that program will be administered. The funds are already there in the court system. This is adding some language to put some specificity to, that's hard for me to say, to how the funds will be administered, how the funds will be collected and how what the guidelines will be for this program.

SENATOR SMITH: All right, but no additional new dollars over what have already been appropriated in 1031.

SENATOR HANNIBAL: That's right. With the exception of LB 220 itself has some funds which are basically a reauthorization of funds, about \$50,000, but no new funds added to this bill.

SENATOR SMITH: Okay, thank you.

SPEAKER BARRETT: Senator Chizek.

SENATOR CHIZEK: I rise to support the motion to return. We had heard both bills. I think 1212 is necessary and I support Senator Hannibal's attempt to return it.

SPEAKER BARRETT: Thank you. Senator Pirsch.

SENATOR PIRSCH: I think also, Senator Smith, and I'm glad that you pointed out those costs that the probationer will be paying for and also, of course, it does save us costs in our jails of feeding and housing and transporting these people and yet giving safety to our public through intensive probation. So there will be savings that you won't even see as well as the paybacks that the person who chooses to use this alternative will be paying back to the system.

SPEAKER BARRETT: There are no other lights. Senator Hannibal, to close.

SENATOR HANNIBAL: I want to make a couple of comments for the record, but I think I'll wait and hope that this motion passes and when we get on the amendment itself, then I will make those. So I would just move that we return the bill.

SPEAKER BARRETT: Thank you, sir. And the question before the house is the adoption of the Hannibal motion to return the bill to Select File for purposes of amendment. All in favor vote aye, opposed nay. Record.

CLERK: 32 ayes, 0 nays, Mr. President, on the motion to return the bill.

SPEAKER BARRETT: The motion prevails and the bill is returned. Senator Hannibal.

SENATOR HANNIBAL: Thank you, Mr. Speaker, members, I don't want to delay the debate or discussion too long, but I do feel it's kind of important that I put a couple things in the record, maybe even try to establish some legislative intent on what LB 1212 is purported and what our intentions are with the bill. The couple things that ought to be mentioned is that intensive supervision probation program has been, I believe, clearly proven as a very viable and cost effective program as an alternative to incarceration for some convicted misdemeanants and for that matter, some convicted felons. And it has been in place in some form in at least 30, 35, maybe even as many as 40 states. We are one of the last few to do this, however, we do have some precedent already in our state. We have had a pilot program going on in Lancaster County over the last year, year and a half, with some fairly good results. The Douglas County, and I believe Sarpy County, on the county level have been operating an electronic monitoring, an intensive supervision probation system, albeit for shorter periods of time. This is going to be moving into a longer period of time, and there are a couple of caveats that ought to be talked about. One of the things that you do worry about when you do not incarcerate a convicted misdemeanor or a convicted felon for certain kinds of crimes is that you want to make sure that the public safety and welfare is paramount in your decisions to decide whether you have incarceration or something less, some kind of a probation system. The system is already clear that that is primary in the judge and I would like to mention that this is a discretionary program. It will be up to the sentencing judges as to whether they would grant this kind of a program. It obviously is not usable for all kinds of convicted persons, but there certainly is an identifiable group that would significantly reduce the pressures on our prison crowding systems right now, prison overcrowding system. So, number one,

you want to keep in mind that the public health and safety is paramount, public welfare and safety is paramount to how you make these decisions. Number two is a caveat that we have a little bit, that we found in the select committee and that is we do have a very large probation system right now as most all states do where you have a lot of people that are on probation as opposed to incarceration. It's probably safe to say it's very overcrowded. The caseloads are so high for our probation workers that it's very, very difficult to keep as good a tab sometimes as you'd like on some of these people on probation. So you establish an intensive probation and instead of having caseloads of somewhere maybe as high as a hundred or more per probation officer on regular probation, we are looking at intensive supervision where your caseloads will be down more in the 15 to 25 range of number of probationers per person and probably 20 would be a pretty good number to use, that you have 20 cases per probation officer so that they can make daily checks, random and spontaneous checks of the residents to make sure that they have contacts all the time and at various times to make sure that these probationers are fulfilling the terms of their probation. But what we don't want to do is have this system become instead of a diversion from incarceration, we don't want this to become just an expansion of the regular probationary net. Now, admittedly, we are taking a little bit of risk here because what could possibly happen is that the judicial system could just be expanding a person who would normally go to regular probation and saying, we're going to put you on intensive probation. And if you do that, then you really haven't diverted anything from our incarceration problem. You have just made a bigger net of probation. We will save no money. We will not have any diversion and we'll just have a more intensive supervision for a person that would normally be on regular probation or a candidate like that. So I do feel it's important that I say for the record that is the intent of LB 1212 and now being amended into LB 220 that our goal with this intensive supervision probation is actual diversion from incarceration, and that the judicial system will look at that as our intent to suggest we do want to divert people from incarceration, those candidates that will not jeopardize unreasonably the safety and the welfare of the general public and that we'll cut down on costs of incarceration and numbers of incarceration for an identifiable public, identifiable candidate that can fall into this category, and that we don't want this to become just an additional probation system that just adds more people, instead of being on the regular probation they go into