

January 9, 1989

LB 112, 202-240  
LR 3

LBs 202-240 for the first time by title. See pages 100-108 of the Legislative Journal.)

Mr. President, I have a notice of hearing by Senator Rod Johnson who is Chair of the Agriculture Committee for Tuesday, January 17.

Mr. President, Senator Hannibal would like to announce that Senator Conway has been selected as Vice-Chair of the Intergovernmental Cooperation Committee.

Mr. President, a new resolution, LR 3. It is offered by Senator Baack and a number of the members. (Read brief explanation. See pages 108-109 of the Legislative Journal.) That will be laid over, Mr. President.

Mr. President, I have a request from Senator Smith to withdraw LB 112. That will be laid over. I believe that is all that I have, Mr. President.

PRESIDENT: Senator Lynch, are you ready to go back to work now? We will return back to adopting of permanent rules. Senator Lynch.

SENATOR LYNCH: Mr. President and members, I have one more proposed committee amendment, simple little amendment. It has to do with cloture. This change would adopt a cloture rule that would become effective after 12 hours debate at each stage of debate on any appropriation bill, and after 8 hours at each stage of debate on all other bills. To briefly explain it, and then Senator Moore will take it from there, let me give you a scenario. Some of you may be familiar with 428, the motorcycle helmet bill. It was my bill. An amendment, say, was offered under this rule by Senator Moore to the bill. As you know, sometimes amendments can take and need more time for discussion and debate than the bill, itself. After 8 hours of debate on Select File, I would move for cloture, or if that bill happened to be a committee bill, the chairman of the committee would move for cloture. The presiding officer then, under this proposal, would immediately recognize the motion and orders debate to cease on Moore's amendment. The vote on the Moore amendment would be taken without further debate. After that, a vote on the cloture motion without debate, 33 votes would be needed for that motion on cloture would be successful. If the cloture motion were successful, a vote on the advancement of the bill,

February 21, 1989      LB 48, 73, 87, 220, 234, 336, 351  
372, 399-401, 558, 592, 684, 704, 714  
762

to LB 336 by Senator Withem. Senator Hall has amendments to LB 704 to be printed, Mr. President. (See pages 798-99 of the Legislative Journal.)

Education Committee gives notice of change of location for a hearing on February 28. That is offered by Senator Withem.

Judiciary Committee whose Chair is Senator Chizek reports LB 87 to General File, LB 220 to General File, LB 234 General File, LB 372 General File, LB 399 General File, LB 401 General File, LB 558 General File, LB 592 General File, LB 73 indefinitely postponed, LB 351 indefinitely postponed, LB 400 indefinitely postponed, LB 684 indefinitely postponed, those all signed by Senator Chizek as Chair. (See pages 799-800 of the Legislative Journal.)

Revenue Committee whose Chair is Senator Hall reports LB 714 to General File with amendments and LB 762 to General File with amendments, both those signed by Senator Hall as Chair of the committee. (See pages 800-03 of the Legislative Journal.) That's all that I have, Mr. President.

PRESIDENT: Thank you. Now we'll move on to LB 48, please.

CLERK: Mr. President, the Legislature last considered LB 48 on February 13. At that time Senator Landis made a motion to indefinitely postpone the bill. That motion is pending.

PRESIDENT: Senator Landis, please.

SENATOR LANDIS: Mr. President, members of the body, over the weekend I've had a chance to think about it and I've come to the conclusion that it must have been a moment of delusion on my part. I don't know why I offered that motion. I certainly want to withdraw it now.

PRESIDENT: It is withdrawn.

CLERK: Mr. President, the next amendment I have to the bill is offered by Senator Bernard-Stevens. The amendment is on page 740 of the Journal.

PRESIDENT: Senator Bernard-Stevens, please.

SENATOR BERNARD-STEVENS: Thank you, Mr. President and members

SPEAKER BARRETT: Senator Pirsch.

SENATOR PIRSCH: Thank you, Mr. Speaker. Members of the body, in 1981, we established for the first time the bill of rights for victims of crime in the law. LB 87 clarifies some of the points that were put into the bill at that time and also clarifies the notice of any scheduled court proceeding and notice of any changes in that schedule. And also when there is notice of plea bargain, as in the original bill, we have said that the county attorney must make note of that. It clarifies the right of the victims and witnesses of crime to be informed on all writs of subpoena or notices to appear, that they are entitled to apply for and receive a witness fee. But in order....Also we have put a provision that if the victims of the crime want to receive these notices that they must keep the county attorney informed of his or her current address and phone number. With that, I would like to move LB 87.

SPEAKER BARRETT: Thank you. Any discussion? Seeing none, those in favor of the advancement of LB 87 to E & R please vote aye, opposed nay. Shall the bill be advanced? Have you all voted? Record.

CLERK: 25 ayes, 0 nays, Mr. President, on the advancement of LB 87.

SPEAKER BARRETT: LB 87 is advanced. LB 220, Mr. Clerk.

CLERK: Mr. President, 220 was a bill introduced by Senator Pirsch. (Read title.) The bill was introduced on January 9, referred to Judiciary, advanced to General File. I have no amendments to the bill, Mr. President.

SPEAKER BARRETT: Senator Pirsch, please.

SENATOR PIRSCH: Thank you, Mr. Speaker. LB 220 provides that when the court sentences an offender to probation the court may, as a condition of his sentence, require the offender to be monitored by an electronic surveillance device system and to pay the cost of such, if the offender has the financial ability. There is...if indeed the offender doesn't, then that is provided for him at no cost. Some judges in Nebraska are already requiring monitoring through electronic surveillance systems. But other judges are reluctant to do so in the absence of

specific statutory authority. The use of electronic surveillance is an attractive alternative to incarceration. Because the systems are cost-effective they can be expeditiously implemented and maintain public safety. The probationer in Sarpy County, as it was explained in the committee, wears an electronic bracelet which sends a radio signal to a receiver, usually inserted in the telephone. An electronic signal is sent over the phone line whenever the probationer exceeds a certain distance, and when this is a part of the usual work release of the person, or court authorized activity, then that is recorded and simply monitors that activity. There have been no machine failures in Sarpy County in 1988, and it is proved to be a cost-effective measure and also one that can be very rehabilitative when a person is given that alternative to a jail or work release confinement. I urge the passage of LB 220.

SENATOR LANDIS PRESIDING

SENATOR LANDIS: Senator Wehrbein is recognized. Your light is on, Senator Wehrbein.

SENATOR WEHRBEIN: Mr. Speaker, members, I wasn't quite ready as I wanted to be. On this electronic surveillance I missed part of it. But it is the implication, if I understood correctly, that if you can afford to pay, you pay, if you can't afford to pay, it will be furnished for this situation?

SENATOR PIRSCH: Yes. Actually I have a note here that I can't find that the actual monitoring equipment is already bought, and indeed this can be used through an 800 number all across the state, if they wish to use that alternative.

SENATOR WEHRBEIN: Okay. I need to study this a little more before I ask any sensible questions. But I guess I'm just a little reluctant to go to this. But I'll listen, I guess, more. Thank you.

SENATOR LANDIS: Thank you, Senator Wehrbein. There being no further lights, Senator Pirsch, you have the opportunity to close on LB 220.

SENATOR PIRSCH: Well, I don't know specifically what your concerns are. This is already used in other states and, of course, in Nebraska. The judges and the correctional institutions like this alternative to confining a person. When

you have an electronic surveillance it is...it keeps the person at home and you don't have to provide them with food or clothing or shelter. So it really is a cost benefit, as well as still maintains that essence of public safety that is needed. I want to tell you and assure you that these are not violent offenders that are used or that are given this opportunity.

SENATOR LANDIS: That's your closing, Senator Pirsch. We'll move to a vote on the advancement of LB 220. Those in favor vote aye, those opposed vote no. Clerk will record.

CLERK: 25 ayes, 0 nays, Mr. President, on the motion to advance LB 220.

SENATOR LANDIS: The motion carries, the bill is advanced. We'll move to LB 234. The introducer is Senator Wehrbein.

CLERK: Mr. President, 234 was a bill introduced by Senator Wehrbein. (Read title.)

SENATOR WEHRBEIN: Mr. President, members, I didn't get to you in time. I guess I better roll on over this, Mr. Speaker. I understand there are some amendments that have been filed and I guess we'll wait until another day. Thank you.

SENATOR LANDIS: You'd like us to pass over the bill for today, Senator Wehrbein.

SENATOR WEHRBEIN: Yes, yes.

SENATOR LANDIS: Thank you very much. In that case we'll move to LB 372. Senator Chizek, the principal introducer.

CLERK: Mr. President, 372, offered by Senators Chizek and Pirsch. (Read title.) The bill was introduced on January 11, referred to Judiciary, advanced to General File. I have no amendments to the bill.

SENATOR LANDIS: Thank you, Mr. Clerk. Senator Chizek, to open on LB 372.

SENATOR CHIZEK: LB 372, colleagues, is a product of about two years of work by the staff into the adequacy of the current criminal sanctions against the fraudulent use of credit and debit cards. As you know, a credit card, like Visa, allows you

March 30, 1989

LB 78, 220, 371, 399, 566  
LR 67

SENATOR LANDIS: The question is the advancement of LB 566. Those in favor vote aye, those opposed vote no. Upon the completion of this vote, the Clerk will read into the record those items that are necessary and then we'll entertain a motion to adjourn. It would be painful to think that a call of the house would be necessary to dispose of this matter at this late hour. If you're in the Chamber, please return to your chair and vote one way or the other on the advancement of 566. The Clerk will record.

ASSISTANT CLERK: 27 ayes, 0 nays on the advancement of the bill, Mr. President.

SENATOR LANDIS: Motion is advanced and the bill is advanced. Mr. Clerk, read into the record those items you have before us.

ASSISTANT CLERK: Mr. President, I have a new resolution, LR 67 by Senator Wesely. (Read brief description. See page 1416 of the Legislative Journal.)

Amendments to be printed from Senator Rod Johnson to LB 78; Senator Chambers to LB 399; Senator Chambers to LB 220 and Senator Hall to LB 371. (See pages 1416-21 of the Legislative Journal.) And that's all I have, Mr. President.

SENATOR LANDIS: Thank you, Mr. Clerk. The Chair recognizes the distinguished senator from northeast Nebraska, Frank Korshoj.

SENATOR KORSHOJ: Mr. Chairperson, I move that we adjourn until April 3rd at 9:00 a.m.

SENATOR LANDIS: You've heard the motion. Those in favor say aye. A machine vote has been called for. Those in favor vote aye, those opposed vote no. Somebody must have heard about a party. I've got a whole sheaf of bills. Just wait for a second and I'll go down to my office and get them and we can stay in session. The Clerk will record.

ASSISTANT CLERK: 23 ayes, 1 nay on the motion to adjourn, Mr. President.

April 3, 1989

LB 44, 44A, 47, 66, 75, 78, 87  
220, 240, 262, 348, 372, 399, 401  
431, 438, 438A, 546, 548, 569, 569A  
582, 582A, 592, 606, 608, 628, 637  
681, 706, 777, 790

the time Senator Abboud can have to finish his closing.

SPEAKER BARRETT: Thank you. The question is the advancement of the bill to E & R Engrossing. All in favor vote aye...thank you. Roll call vote has been requested in reverse order. So be it. Mr. Clerk.

CLERK: (Roll call vote read. See pages 1431-32 of the Legislative Journal.) 27 ayes, 10 nays, Mr. President, on the advancement 592.

SPEAKER BARRETT: LB 592 advances. Anything for the record, Mr. Clerk?

CLERK: I do, Mr. President, thank you. Your Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 262 and recommend that same be placed on Select File; LB 569, LB 569A, LB 606, LB 628, LB 681, LB 78, LB 438, LB 438A, LB 706, LB 47, LB 75, LB 548, LB 582, LB 582A, LB 240, LB 790, LB 777, LB 44, LB 44A, LB 637, LB 66, LB 546, LB 87, LB 220, LB 372, LB 399, LB 401 and LB 608, some of which have E & R amendments attached, Mr. President. (See pages 1432-44 of the Legislative Journal.)

Mr. President, your Committee on Health whose Chair is Senator Wesely reports LB 348 to General file with committee amendments attached. That's signed by Senator Wesely as Chair. (See page 1444 of the Legislative Journal.)

That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. As announced before recess, we will move back to LB 431 and LB 431A. LB 431, Mr. Clerk.

CLERK: Mr. President, the first item I have on 431 are Enrollment and Review amendments.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that the E & R amendments to LB 431 be adopted.

SPEAKER BARRETT: The question is the adoption of the E & R amendments to LB 431. Those in favor say aye. Opposed no. Carried. They are adopted.

SENATOR PIRSCH: Perhaps maybe that is not necessary.

SENATOR LANDIS: Mr. Clerk, please record.

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of Senator Pirsch's amendment.

SENATOR LANDIS: The amendment passes. Mr. Clerk, next item on this bill.

CLERK: I have nothing further on the bill, Mr. President.

SENATOR LANDIS: Senator Pirsch is recognized to open on the bill itself.

SENATOR PIRSCH: I would just like to move and advance LB 87 to E & R Initial.

SENATOR LANDIS: The motion is to advance to E & R for engrossment since we're on Select File, Senator Pirsch. There are no lights if you'd like to close, you're welcome to close. Will waive closing, and proceed to a vote on the measure. Those in favor say aye. Those opposed nay. The measure is advanced. We'll move now to LB 222, Mr. Clerk, LB 220, Mr. Clerk.

CLERK: Mr. President, 220 is on Select File. First order of business with the bill is an amendment to the bill by Senator Chambers.

SENATOR LANDIS: The Chair would recognize Senator Chambers, and of course the Chair can recognize Senator Chambers when he sees him, but he does not appear to be here at the moment. Mr. Clerk, let's pass over that amendment.

CLERK: Well, Mr. President, in that case I have a second amendment from Senator Chambers. Senator Pirsch has an amendment to the bill, Mr. President. (Pirsch amendments appears on pages 322-25 of the Legislative Journal.)

SENATOR LANDIS: Can you identify that amendment for us, Mr. Clerk?

CLERK: I have AM1987 in front of me, Senator.



SENATOR LANDIS: Does that appear in the Journal, Mr. Clerk?

CLERK: No, sir, it does not.

SENATOR LANDIS: Senator Pirsch, on your amendment to LB 220.

SENATOR PIRSCH: Members of the Legislature, this just came to me and it came to me from the Clerk of the Court, and so you'll have to forgive me if I will just have to read what the amendment is and you will have to follow along that way.

SENATOR LANDIS: Senator Pirsch, if the Chair could interrupt just momentarily. If you could very briefly describe the bill that is being amended so that we'll know what the amendment relates to, I'm sure the body would appreciate understanding what the amendment is relating to.

SENATOR PIRSCH: That would be probably a good idea.

SENATOR LANDIS: Thank you.

SENATOR PIRSCH: LB 220, if you'll recall from General File, provides that when a court sentences an offender to probation the court may, as a condition of his sentence, require that the offender be monitored by an electronic surveillance device system and to pay the cost of such if the offender has a financial ability. Some judges in Nebraska are already requiring monitoring through electronic surveillance systems, but other judges are reluctant to do so in the absence of statute authority. The judges who are doing so feel they have the authority under existing Section 29, but one of the judges who is indeed using this, who has worked with us on this has requested that we indeed specify this in our statutes. Currently the following 14 states, and I won't read them, but if you are curious I will tell you, and the use of this electronic switching which is the coming thing, as you know, electronics is an attractive alternative to incarceration because the systems are cost effective, they can be expeditiously implemented and they still maintain public safety. In the system that is currently used in Sarpy County, the probationer wears an electronic bracelet of anklet which sends a radio signal to a receiver usually inserted in a telephone. An electronic signal is sent over the phone line whenever the probationer exceeds a certain distance from the receiver and that usually is 200 feet,

so that would cover the yard area and around the house. The electronic signal triggers a phone call to a central computer. The time of the phone call is printed on a sheet and anyone that is not supposed to be out of that 200 foot circle, then that violation is reported on the sheet. But before the person is brought to court, of course, an investigation is made to determine whether the machine is working properly. In 1988, 89 people were placed on an electronic surveillance system in Sarpy County. Eight people failed to comply with the probation provisions. In other words, they left that 200-foot radius when they were not authorized to do so to go to work or to go to the doctor or any other specific stipulation, but this failure rate is consistent with national studies showing an average of 10 percent of people who are placed on the system will fail. Sarpy County had 25 to 30 receivers and there also is a grant from the Nebraska Crime Commission who will help counties provide this kind of equipment. The funds are available to all counties in Nebraska, but so far few counties have applied for the funds in the absence of statutory authority to use the systems. And it is interesting, besides the bracelet or it can be worn on the ankle, they are working on other electronic systems and one which you might find interesting is a voice identification to determine whether a person is complying with the terms of their probation. The computer randomly calls the phone number at a time when the person is supposed to be there and the recorded voice asks the person to recite the names of eight states or it might be another litany and then that person's voice is compared to the voice stored in the computer to determine whether the voices are the same. This is the age of electronics and also this is the age when we need to find some good alternatives to our imprisonment of people and yet provide the safety and the oversight that is needed.

SENATOR LANDIS: I understand you have the only copy of the amendment. Are you going to read that to the body?

SENATOR PIRSCH: Yes, I am going to read that now, Senator Landis.

SENATOR LANDIS: Thank you. Good.

SENATOR PIRSCH: Now that you know the background and just to give you a little more background, Senator Hannibal is working and his committee is working on intensive probation and, of course, electronic surveillance is and can be a part of that,

but Joe Steele, the court administrator came to us with an amendment that is ready now and that I would like to put up for your consideration and that is in Section 29-2259. We are talking about the salaries and the costs and the travel expenses and Mr. Steele has asked that we add a third section after salaries and expenses and travel expenses to say that the costs of drug testing and equipment incident to the electronic surveillance of individuals on probation shall be paid by the state. And then as you drop down to Section 2, the new language says there is hereby created the Probation Supervision Cash Fund. It is a cash fund, and all funds collected shall be remitted to the State Treasurer for credit to the fund. The fund shall be used to supplement any state funds necessary to support the costs of supervision of individuals on intensive probation. Any money in the fund available for investment shall be invested by the state investment officer. What then...essentially this adds to LB 220 is those two sections, one, that the costs of drug testing and equipment incident to the electronic surveillance of individuals on probation shall be paid by the state and that it also creates the Probation Supervision Cash Fund.

SENATOR LANDIS: Anything else to add, Senator Pirsch?

SENATOR PIRSCH: That is essentially it.

SENATOR LANDIS: Thank you.

SENATOR PIRSCH: I don't know if Senator Hannibal would want to talk to...oh, that's up to you.

SENATOR LANDIS: Senator Pirsch, there are no lights on, oh, Senator Hannibal does have his light on. The Chair will recognize Senator Hannibal.

SENATOR HANNIBAL: Senator Landis, Mr. Chairman and members, I will speak just for a moment because I was going to speak a little later on the bill, but actually the amendment that Senator Pirsch is offering right now becomes the bill and so there would be no further reason to discuss it. What Senator Pirsch has been telling you as far as what had come to us from the Court Administrator's Office is essentially an amendment to her bill dealing with the allowance of electronic monitoring devices be used as a condition of probation. That's what LB 220 does. What this amendment does is also set up a cash fund for

the State Probation Office to be able to collect the funds that Senator Pirsch asks to be collected in her bill and place them in a cash fund as opposed to placing them...right now if you collect the funds, the funds just go back into the General Fund and you have to have statutory language put in place to create a cash fund within an agency. That's what the amendment does. It creates a cash fund so that the funds you collect from those who are financially able to pay for their electronic surveillance, those funds will come into this cash fund and help defray the cost of the program. It also suggests that the state is going to pay for the equipment, the initial equipment to buy the electronic surveillance equipment and the testing equipment necessary to be using...to use incidental to that. The only reason why I got up to speak also, and I support the amendments, I support the bill. I am in the process of trying to put together amendments that we would like to add to Senator Pirsch's bill dealing with intent language with regards intensive probation. Unfortunately those amendments aren't ready yet and it also is unfortunate that if we can get to a final draft and if we can get agreement on the floor that it will require bringing the bill back from Final Reading, that would require a reprinting which this bill isn't all that large, however, so I think I will wait until then, but try to give you some notice right now that we will be bringing some amendments from the committee's recommendations that will deal with the statements of intent as to how intensive probation will be used and rather than go into those now without having them in front of me, I would just say I support this amendment, I support the bill. I will be hoping to offer amendments later that will add to the bill and I think make some other provisions that I think will help us with our intensive probation system.

SENATOR LANDIS: Thank you, Senator Hannibal, for that notice. Senator Pirsch, you're recognized to close on the amendment.

SENATOR PIRSCH: I would just like to have the body accept the amendments and move the bill.

SENATOR LANDIS: Thank you. The motion is to the adopt the amendment described and read for us by Senator Pirsch. Those in favor vote aye, those opposed vote no. The Chair appreciates the alacrity with which so many of you have recorded your votes on this measure. The Clerk will record.

CLERK: 25 ayes, 0 nays, Mr. President, on adoption of Senator

Pirsch's amendment.

SENATOR LANDIS: The amendment is adopted. Senator Pirsch, on the advancement of LB 220.

SENATOR PIRSCH: I would move to advance the bill.

SENATOR LANDIS: The motion is to advance LB 220. Thank you. The Clerk informs you that there are items still on the desk. Mr. Clerk.

CLERK: Well, Mr. President, just to clear the record, Senator Chambers did have two amendments. He has instructed me to withdraw those, both amendments, so I have nothing further pending on the bill, Mr. President.

SENATOR LANDIS: Thank you. The motion is to advance to E & R for engrossing. Those in favor say aye. Opposed say nay. The bill is advanced.

SPEAKER BARRETT PRESIDING

SPEAKER BARRETT: To LB 399, Mr. Clerk.

CLERK: Mr. President, LB 399 is on Select File. First order of business are Enrollment and Review amendments.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move the adoption of the E & R amendments to LB 399.

SPEAKER BARRETT: You've heard the motion to adopt the E & R amendments. Those in favor say aye. Opposed no. Carried, they are adopted.

CLERK: Mr. President, I now have two amendments from Senator Chambers. Again, I have notes that he would like to withdraw those.

SPEAKER BARRETT: They are withdrawn.

CLERK: Mr. President, I have nothing further on the bill.

SPEAKER BARRETT: The Chair recognizes Senator Pirsch.

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LB 87, 159, 163, 163A, 220, 240, 257  
313, 315, 397, 399, 486, 488, 488A  
756, 856, 911, 963, 1002, 1026, 1033  
1037, 1050, 1051, 1090, 1108, 1109, 1141  
1168, 1181, 1190  
LR 239, 240

PRESIDENT: Okay. Thank you. Senator Ashford, you are next, but may I introduce some guests under the south balcony, please. We have from District 22, which is Senator Robak's district, Dianne Foltz of Platte Center and Betty Grant of Columbus, Nebraska. With them are three AFS students, Jean/David Miquel of Paris, France, and Patty Cervantes from Bolivia, and Shane Walker from Australia. Would you folks please stand and be recognized. Mr. Clerk, you have something for the record?

CLERK: I do, Mr. President, very quickly. Enrollment and Review reports LB 163 to Select File, LB 163A to Select File, those signed by Senator Lindsay as Chair. Agriculture Committee, whose Chair is Senator Rod Johnson, reports LB 856 to General File. (See page 429 of the Legislative Journal.)

Mr. President, Senator Coordsen, as Chair of the Business and Labor Committee, has selected LB 313 and LB 315 as the committee priority bills for the year. And Enrollment and Review reports LB 87, LB 220, LB 240, LB 257, LB 397, LB 399, LB 486, LB 488, LB 488A, LB 756 all correctly engrossed. Those signed by Senator Lindsay as Chair. (See pages 430-33 of the Legislative Journal.)

Mr. President, notice of hearings from the Education Committee and from the Natural Resources Committee, signed by the respective chairs. (Re: LB 1190, LB 1181, LB 1168, LB 911, LB 1050, LB 1090, LB 1033, LB 1037, LB 963, LB 1026, LB 1108, LB 1109, LB 1141, LB 1002, LB 1051, LR 239 and LR 240.) And Senator Haberman has amendments to be printed to LB 163. That's all that I have, Mr. President. (See pages 433-34 of the Legislative Journal.)

PRESIDENT: Senator Ashford, did you wish to speak on the first set of Kristensen amendments?

SENATOR ASHFORD: I call the question.

PRESIDENT: Oh, you call the question. The question is, shall debate cease? All those in favor...Do I see five hands, first? I do. The question is, shall debate cease? All those in favor vote aye, opposed nay. What do you think, Senator Ashford? Record, Mr. Clerk.

CLERK: 16 ayes, 0 nays to cease debate, Mr. President.

March 19, 1990

LB 220, 551, 1055

CLERK: Mr. President, I do. I have a hearing notice from the General Affairs Committee for certain confirmation hearings. That is signed by Senator Smith as Chair.

Mr. President, Senator Lynch has amendments to be printed to LB 551. Senator Hannibal has amendments to LB 220. (See pages 1445-49 of the Legislative Journal.)


And, Mr. President, finally, I have a request for a motion to be printed by Senator Chambers. (Re: LB 1055. See page 1450 of the Legislative Journal.) That's all that I have.

SPEAKER BARRETT: Thank you. Senator Hefner.

SENATOR HEFNER: Mr. President, I move we adjourn until 9:00 a.m. tomorrow morning, March 20.

SPEAKER BARRETT: You've heard the motion to adjourn until tomorrow morning at nine o'clock. All in favor say aye. Opposed no. Carried, we are adjourned.

Proofed by:

  
LaVera Benischek

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

intensive probation. I want that to be the legislative intent when we add this amendment on. I want it to be legislative intent of LB 220 and I thought it would be important to put that in the record and if there is anybody here on the floor that suggests that that is not a proper intent, I would like you to have that opportunity to speak your mind so we'd have both sides if you disagree.

SPEAKER BARRETT: Thank you. Any discussion on the Hannibal amendment? Seeing none, Senator Hannibal, anything further?

SENATOR HANNIBAL: To move the amendment.

SPEAKER BARRETT: Thank you. The question is the adoption of the Hannibal amendment to LB 220. All in favor vote aye, opposed nay. Record, please.

CLERK: 35 ayes, 0 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: The amendment is adopted. Senator Hannibal.

SENATOR HANNIBAL: Move the bill be readvanced.

SPEAKER BARRETT: Any discussion? The question is, shall LB 220 be readvanced? All in favor say aye. Opposed no. Ayes have it, motion carried, the bill is readvanced. Senator Nelson would like to recognize Dr. Ehresman of Grand Island who is serving as our doctor of the day today on behalf of the Nebraska Academy of Family Physicians. Please welcome Dr. Ehresman. Dr. Ehresman, would you stand. Thank you. We're very, very glad that you're here today. Members, please return to their desks for Final Reading. Mr. Clerk, would you please read LB 259.

ASSISTANT CLERK: (Read LB 259 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 259 pass? All in favor vote aye, opposed nay. Have you all voted? Record, please.

ASSISTANT CLERK: (Read record vote. See page 1698 of the Legislative Journal.) The vote is 33 ayes, 13 nays, 2 present and not voting, 1 excused and not voting, Mr. President.

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LB 220, 976, 1055, 1153, 1153A, 1221, 1246A  
1247

SPEAKER BARRETT: Thank you. The question is the adoption of the Chambers amendment to the amendment. Those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Senator Chambers. Roll call vote has been requested. Members, please return to your seats. The question is the adoption of the Chambers amendment to the Johnson amendment. Mr. Clerk. Excuse me, members, please return to your seats. (Gavel.) The call is not raised. Please check in. All members please check in. Senator Smith, please, record your presence. Senator Beyer. Senators Goodrich, Moore, and Scofield, the house is under call. Senators Moore, Goodrich, and Scofield, the house is under call. The question, again, the adoption of the Chambers amendment to the Johnson amendment to LB 976. Mr. Clerk, call the roll.

CLERK: (Roll call vote taken. See pages 1734-35 of the Legislative Journal.) 11 ayes, 18 nays, Mr. President.

SPEAKER BARRETT: Motion fails. The call is raised. Next item.

CLERK: Mr. President, Senator Landis would move to amend.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, I move to adjourn until tomorrow morning at nine o'clock.

SPEAKER BARRETT: Would you care to amend that to eight o'clock, Senator Landis?

SENATOR LANDIS: I certainly would.

SPEAKER BARRETT: Thank you. Any items to read in, Mr. Clerk?

CLERK: I do, Mr. President. Your Committee on Enrollment and Review respectfully reports they have carefully examined engrossed LB 220 and find the same correctly engrossed.

Mr. President, I have a new bill, LB 1247 offered by the LR 232 Special Investigative Committee. (Read for the first time by title. See pages 1735 of the Legislative Journal.)

Mr. President, LB 1153 is reported to Select File, LB 1153A, LB 1055, LB 1221, and LB 1246A, all those on Select File.

April 5, 1990

LB 220, 1241, 1244

We are technically under call. Please record your presence. Senator Lindsay. Senator Langford, please check in. A roll call has been requested on the passage of LB 1241E. Mr. Clerk, call the roll.

CLERK: (Roll call vote taken. See pages 1971-72 of the Legislative Journal.) 31 ayes, 1 nay, Mr. President, on the motion to pass the bill with the emergency clause attached.

SPEAKER BARRETT: The bill is not passed with the emergency clause attached. The question then is, shall the bill pass with the emergency clause stricken? All in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: (Read record vote. See page 1972 of the Legislative Journal.) 32 ayes, 0 nays, 5 present and not voting, 12 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 1241 passes. LB 1244E.

CLERK: (Read LB 1244 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 1244 with the emergency clause attached pass? All in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: (Record vote read. See page 1973 of the Legislative Journal.) 34 ayes, 0 nays, 2 present and not voting, 13 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 1244E passes. LB 220.

ASSISTANT CLERK: (Read LB 220 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 220 pass? All in favor vote aye, opposed nay. Have you all voted? Record.

ASSISTANT CLERK: (Record vote read. See page 1974 of the Legislative Journal.) The vote is 36 ayes, 0 nays, 1 present and not voting, 12 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 220 passes. The A bill.



April 5, 1990

LB 220, 220A, 571A, 571, 843A, 843, 958  
1064A, 1064, 1241, 1244

All in favor vote aye, opposed nay. Have you all voted?  
Record.

CLERK: (Record vote read. See page 1979 of the Legislative Journal.) 29 ayes, 0 nays, 8 present and not voting, 12 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 843A passes. LB 958.

CLERK: (Read LB 958 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 958 pass? All in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: (Record vote read. See page 1980 of the Legislative Journal.) 31 ayes, 1 nay, 5 present and not voting, 12 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 958 passes. LB 1064E.

CLERK: (Read LB 1064 on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 1064 with the emergency clause attached pass? All in favor vote aye, opposed nay. Record, please.

ASSISTANT CLERK: (Record vote read. See page 1981 of the Legislative Journal.) The vote is 36 ayes, 0 nays, 1 present and not voting, 12 excused and not voting, Mr. President.

SPEAKER BARRETT: LB 1064E passes. And while the Legislature is in session and capable of transacting business I propose to sign and I do sign, LB 571A, LB 571, LB 1241, LB 1244, LB 220, LB 220A, and LB 843. Mr. Clerk, would you read LB 1064A.

CLERK: (Read LB 1064A on Final Reading.)

SPEAKER BARRETT: All provisions of law relative to procedure having been complied with, the question is, shall LB 1064A pass? Those in favor vote aye, opposed nay. Have you all voted? Record, please.

April 9, 1990

LB 220, 220A, 315, 369, 369A, 551, 551A  
571, 56, 720, 720A, 799, 851, 896  
923, 953, 958, 960, 960A, 980, 980A  
994, 994A, 1018, 1063, 1063A, 1064, 1064A  
1080, 1090, 1136, 1146, 1184, 1184A, 1244

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber for the last day of the Second Session of the 91st Legislature. We're especially happy to have with us this morning our own Harland Johnson for our prayer of the morning. Would you please rise?

HARLAND JOHNSON: (Prayer offered.)

PRESIDENT: (Gavel.) Thank you, Harland, and may I say, on behalf of all the members of the Legislature, we have truly appreciated your prayers during the session. They have been very meaningful because you understand us so well, so thank you again. Roll call, please.

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

PRESIDENT: Thank you. Any corrections to the Journal?

CLERK: No corrections this morning, Mr. President.

PRESIDENT: Any messages, reports, or announcements today?

CLERK: Mr. President, a series of messages. First, communications from the Governor. Engrossed...well, before that, Mr. President, bills read on Final Reading as of late last Thursday were presented to the Governor on Thursday evening as of 8:15 p.m. Communications from the Governor, Mr. President, and I might indicate to the members that copies of messages I have received have been distributed and you should have a copy on your desk. Communications to the Clerk: Engrossed LB 1080, LB 1184, LB 1184A, LB 656, LB 1146, LB 799, and LB 1136 were received in my office on April 3 and signed by me on April 6 and delivered to the Secretary of State. Sincerely, Kay Orr, Governor. (See Message from the Governor as found on page 1985 of the Legislative Journal.) A second communication: Engrossed LB 220, LB 220A, LB 315, LB 369, LB 369A, LB 551, LB 551A, LB 571, LB 720, LB 720A, LB 851, LB 896, LB 923, LB 953, LB 958, LB 960, LB 960A, LB 980, LB 980A, LB 994, LB 994A, LB 1018, LB 1063, LB 1063A, LB 1064, LB 1064A, LB 1090, and LB 1244 were received in my office on April 3 and signed by me on April 7, delivered to the Secretary of the State. Sincerely, Kay Orr, Governor. (See Message from the Governor as found on page 1985 of the Legislative Journal.) In addition to those items,