

January 10, 1990

LB 662, 742, 1098
LR 238

E & R. Those in favor please vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 32 ayes, 4 nays on the advancement of 742, Mr. President.

SPEAKER BARRETT: LB 742 is advanced. For the record.

CLERK: Mr. President, new resolution, LR 238 by Senator Chambers. (Read brief description. See page 269 of the Legislative Journal.) That will be laid over.

Mr. President, hearing notice from Health and Human Services and from Education and Revenue, signed by their respective Chairs.

And, Mr. President, new bill. (Read LB 1098 by title for the first time. See page 270 of the Legislative Journal.) That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Moving to the next bill on General File, Mr. Clerk, LB 662.

CLERK: Mr. President, 662 was a bill introduced by Senator Scofield and Chizek, Coordsen, Wesely, Landis, Barrett, Pirsch, Labedz, Baack, Smith, Moore and Bernard-Stevens. (Title read.) The bill was introduced on January 19 of last year, Mr. President. It was referred to the Health and Human Services Committee for public hearing. The bill was advanced to General File. I do have committee amendments pending by the Health and Human Services Committee.

SPEAKER BARRETT: The Chair recognizes Senator Wesely on the committee amendments.

SENATOR WESELY: Thank you, Mr. Speaker. If I could, I'd like to ask that the committee amendments be divided into two parts. There are two distinct sections and I'd like to take them up individually if you don't mind.

SPEAKER BARRETT: Mr. Clerk.

CLERK: Senator, just so I know, just divide them where they...

SENATOR WESELY: There is two new sections, take the first...

that to happen. They took pride in the fact that they were the smallest school that was involved in that participation. They certainly did represent our state in a very admirable and commendable fashion and provided some coverage, through national TV, when those parades were followed. And this is simply then a resolution acknowledging the conduct and the activities of these young people. So I would move its adoption.

SPEAKER BARRETT: Thank you. Discussion? Seeing none, those in favor of the adoption of the resolution, offered by Senator Warner, please vote aye, opposed nay. Record.

CLERK: 26 ayes, 0 nays, Mr. President, on adoption of LR 235.

SPEAKER BARRETT: LR 235 is adopted. LR 238, Mr. Clerk.

CLERK: Mr. President, 238, by Senator Chambers, is found on page 269 of the Journal, discusses the styrofoam cup issue.

SPEAKER BARRETT: (Gavel.)

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I have, from time to time, expressed my irritation at various resolutions that are brought before us. I haven't been able to impact at all on the introduction of such resolutions, so as I indicated the other day, since I can't beat them I'll join them. But this is a serious resolution which is in logical sequence to the one adopted the other day relative to a styrofoam cup ban. The resolution says the following: Whereas, on January 10, 1990, the Legislature, by a vote of less than a majority of the elected members, adopted LR 231; and, Whereas, LR 231 directs that the Legislature ban the use of styrofoam containers by Senators and staff of the Legislature; and, Whereas, blatant violation of this directive is possible, nay likely, ... Mr. Chairman, and Whereas, violations should not be ignored, Now, therefore, be it resolved by the members of the Ninety-First Legislature of Nebraska, Second Session: That the Executive Board of Legislature establish a corps of 100 confidential informants to ferret out and inform against suspected violators of the styrofoam ban. These are such important provisions that I think I ought to discuss each one. We don't have enough state troopers to look into the enforcement of this very important directive contained in LR 231, so since the Legislature undertook to do this by less than a majority which means that 22 are trying to tell 27 what to do and what

not to do, it's only appropriate that the Legislature also establish an enforcement arm. The next resolve. That applicants for such corps file an application with the Superintendent of the Nebraska State Patrol who shall recommend informants to the Executive Board. Since the State Patrol already has a system whereby they use confidential informants to obtain information on citizens, I feel they are the most capable and logical group to train the informants who will work in conjunction with the Legislature in enforcing this serious policy. That such corps of informants be known as Finders of Outlawed Legislative Styrofoam, or FOOLS. That such FOOLS receive at least eight hours of informants training from the State Patrol. That such FOOLS inform against suspected violators to any member of the custodial staff of the Building Division for appropriate division...disposition. That all styrofoam cups in the possession of the Legislative Accounting Office be turned over to Senator Ernie Chambers forthwith. Now, there are some people who have chuckled at this, but you'll notice that at no point did I crack a smile, at no juncture have I laughed. The Legislature made a profound and serious statement the other day worthy of a Legislature of this stripe. So what I am proposing is that we show the seriousness of our intent by enforcing what I consider to be a silly proposition, but which I feel is very serious. This directive in LR 231 is not a rule. The Legislature's conduct is governed by its rules, not resolution. So it has no impact of any kind as far as I'm concerned. I had thought instead of requiring reports of violators to go to the custodial staff that they might should go to a member of the Governor's staff, because she is so interested in enforcing drug laws. And this kind of fits into the category because an attempt has been made to make styrofoam a banned commodity, possession of which can be deemed inappropriate. And I thought the most capable person in the Governor's staff to handle this was Gary Rex. But since he's got too many jobs, I couldn't do that. He heads Policy Research, the Energy Office, Housing and he's got a new designation, that of official fall guy of the administration. And when a person has that much of a burden to carry, this serious responsibility that I'm contemplating here certainly should not be imposed upon his delicate shoulders. Now, some people, some people may see this entire thing, Senator Conway, as a tempest in a styrofoam tea cup. But I don't see it as being that because the Legislature took about an hour and a half of time to discuss it. Despite my feeling that if we were going to take some serious, meaningful action with reference to

styrofoam, we should enact a law, not to take effect in 1992, not to allow any exceptions, but to ban styrofoam from the state, which is not going to be done. That failing, I think what we did was an exercise in futility. If the resolution, LR 231, had simply indicated that because the use of styrofoam throughout the society produces residue which winds up in landfills and other places, it will not degrade for a large number of years, therefore, it would be appropriate for the Legislature to establish some kind of policy with reference to how the state will deal with styrofoam products. I would not have opposed that. I would take that as a serious effort to look at the issue than to do something about it. But to pass the kind of resolution we did I think was foolish. I also feel that since the resolution was passed you can see how serious I take it. But, if the body is serious, then it ought to adopt my resolution. Otherwise there is no enforcement arm. If our employees order food from outside the Capitol, if they have the audacity to carry food from the cafeteria through the halls of this building in a styrofoam container, if the news media and others are allowed to be in this Chamber and use styrofoam, then what have we really done? Nothing of substance, nothing that is logical, nothing that is reasonable. But since that is what 22 members of the Legislature want to do, I expect I should receive at least 22 votes in support of what it is I'm proposing here today. And, Mr. Speaker, I intend to speak again on this matter because I see it as very serious. I may even have some amendments of my own to offer.

SPEAKER BARRETT: Thank you. Chair recognizes you, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. Chairman. Why do we offer resolutions in the Legislature anyway? We offer resolutions because they are not binding and they have no legal impact of any kind. We offer resolutions because it offers to each member who would bring one the opportunity to use the floor of the Legislature for a platform to make various statements, to have things acted upon in one way or the other, negative or positive, by a vote of the members. But once acted upon, it's usually cast aside and forgotten. Resolutions of the kind offered by Senator Warner this morning, where you do things or make statements to recognize what young people have done, don't bother me that much, because if you can have the Legislature showing some indication that the positive things young people do are taken note of and appreciated, that's fine. That might be

one of the better things that the Legislature can do, whether by resolution or otherwise. But all of the other nonsense that shows up in these resolutions, we had one last year where we, the Legislature, I voted against it and spoke against it, honored a lady because she was having some kind of an attack while driving her car and she parked her car. So the Legislature officially passed a resolution to honor a woman for parking her car. Somebody else had offered a resolution to honor the custodial staff because they left the offices dusty, they didn't sweep the floors, they don't vacuum properly, don't empty the wastebaskets, but offered a resolution to honor the custodial staff. That is some of the silliness that occurs on the floor of the Legislature. So I'm trying to get into the spirit that seems to pervade this body. Yesterday I spent a good number of hours trying to persuade the Legislature not to take away certain constitutional rights to appeal to the Supreme Court that the citizens currently enjoy. I failed at every juncture. And in my opinion the people will suffer. There were senators who did not participate in the discussion, because it was relative technical and complex. But when it comes to some of these resolutions, you'll find them scurrying out of the woodwork. Here's a resolution for this, here's a resolution for that, and all of them put together wouldn't amount, as far as substance, to a pimple on a certain part of the anatomy of an elephant, yet the resolutions continue. So what I am serving notice of today, by this resolution, is that I'll take it seriously, the resolutions that are offered, as those who offer them. And if there is any way I can draft a follow-up resolution, that is precisely what I intend to do, and I will offer one. And by myself, other than with reference to those resolutions honoring young people, I'll try to duplicate the volume of resolutions that are offered by other members of the Legislature. But back to the subject at hand. I do hope that I can get enough votes to pass this resolution.

SPEAKER BARRETT: Thank you. Anyone else care to speak to the resolution? Senator Chambers, would you like to close?

SENATOR CHAMBERS: Mr. Chairman, I'd like to, but I'll resist the temptation.

SPEAKER BARRETT: Thank you. The question before the body is the adoption of LR 238. Those in favor vote aye, opposed nay. Senator Landis.

January 12, 1990

LB 50
LR 238

SENATOR LANDIS: (Mike not activated immediately.) ...the rule under which we're voting so that we'll know the success or failure of the action by what requirement is needed to pass the measure.

SPEAKER BARRETT: A simple majority, Senator Landis. Thank you. Have you all voted? Record.

CLERK: 4 ayes, 5 nays, Mr. President, on adoption of the resolution.

SPEAKER BARRETT: Motion fails. For the record, Mr. Clerk?

CLERK: I have nothing at this time, Mr. President.

SPEAKER BARRETT: Thank you. Moving to General File, the Chair announces that we will be moving over LB 807 and proceed immediately to LB 50. Mr. Clerk.

CLERK: Mr. President, LB 50 was a bill that was introduced by Senator Dierks and Senator Wehrbein. (Read title.) The bill was introduced on January 5 of last year, Mr. President, at that time referred to the Judiciary Committee. The bill was advanced to General File. I do have committee amendments pending by the Judiciary Committee.

SPEAKER BARRETT: Senator Arlene Nelson, will you handle the committee amendments, please.

SENATOR NELSON: Mr. Speaker, thank goodness I didn't have to handle committee amendments on the bill yesterday. I wanted to commend the senators that did that. LB 50 concerns cruelty to animals. It was brought to us by Senator Dierks, I believe, and maybe Senator Wehrbein. It was held in the Judiciary Committee. It's an extensive upgrade and clarification of Nebraska's cruelty to animal statutes. Senator Dierks will explain the bill a little bit later. As a result of the testimony at the hearing, the committee made several amendments. These amendments are found on page 1130 of the Journal. They are principally this, the first amendment removes felony provisions from the bill and makes a subsequent offense a Class I misdemeanor. Also, the amendments eliminate provisions for multiple charges based on herd size. I believe that the third offense on that was a felony, and that was removed. Secondly, because of the constitutional concerns, the amendments eliminate