

January 19, 1989

LB 94, 247, 570, 576, 683-808

as yet, please contact Joanne immediately. If you don't have the bill that you are expecting, please contact the Bill Drafters Office immediately. Mr. Clerk.

CLERK: Mr. President, for the record, I have received a reference report referring LBs 496-599 including resolutions 8-12, all of which are constitutional amendments.

Mr. President, your Committee on Banking, Commerce and Insurance to whom we referred LB 94 instructs me to report the same back to the Legislature with the recommendation that it be advanced to General File with amendments attached. (See pages 320-21 of the Legislative Journal.)

Mr. President, I have hearing notices from the Judiciary Committee signed by Senator Chizek as Chair, and a second hearing notice from Judiciary as well as a third hearing notice from Judiciary, all signed by Senator Chizek.

Mr. President, new bills. (Read LBs 683-726 by title for the first time. See pages 321-30 of the Legislative Journal.)

Mr. President, a request to add names, Senator Korshoj to LB 570, Senator Smith to LB 576, Senator Baack to 570 and Senator Barrett to LB 247.

SPEAKER BARRETT: Stand at ease.

EASE

SPEAKER BARRETT: More bills, Mr. Clerk.

ASSISTANT CLERK: Thank you, Mr. President. (Read LBs 727-776 by title for the first time. See pages 331-42 of the Legislative Journal.)

EASE

SPEAKER BARRETT: More bill introductions.

ASSISTANT CLERK: Thank you, Mr. President. (Read LBs 777-808 by title for the first time. See pages 343-50 of the Legislative Journal.)

CLERK: Mr. President, I have reports. Your Committee on

March 13, 1989

LB 95, 140, 257, 280, 289, 311, 330  
336, 387, 395, 438, 444, 478, 561  
588, 603, 606, 643, 683, 705, 710  
721, 736, 739, 744, 761, 762, 767  
769, 780, 807

indefinitely postponed; LB 478, indefinitely postponed; LB 561, indefinitely postponed; LB 387, indefinitely postponed, all those signed by Senator Chizek as Chair of the Judiciary Committee. (See pages 1081-82 of the Legislative Journal. Journal page 1082 shows LB 721 as indefinitely postponed.)

Mr. President, a series of priority bill designations. Senator Hall would like to designate LB 762 as a committee priority. Senator Hartnett designates LB 95 and LB 444 as Urban Affairs priority bills. Senator Hartnett chooses LB 603 as his personal priority bill. LB 739 has been selected by Senator Hannibal; LB 606 by Senator Schimek; LB 761 and LB 289 by the Natural Resources Committee, and LB 807 by Senator Schmit, personally. LB 769 by Senator Labedz; LB 705 by Senator Ashford; LB 438 by Senator Wehrbein; LB 710 by Senator Scofield; LB 643 by Senator Bernard-Stevens; LB 588 by Senator Chambers; LB 739 by Senator Hannibal; LB 330 by Senator Pirsch; LB 767 by Senator Smith; LB 736 and LB 780 by General Affairs Committee; LB 395 by Senator Peterson. Senator Lamb selected Transportation Committee's LB 280 as a priority bill. LB 311 has been selected by Senator Landis as his personal priority bill; LB 683 by Senator Schellpeper.

Mr. President, I have a series of amendments to be printed. LB 744 by Senator Withem; LB 336 and LB 257, those by Senator Withem. (See pages 1083-88 of the Legislative Journal.)

I have an Attorney General's Opinion addressed to Senator Haberman regarding an issue raised by Senator Haberman. (See pages 1088-90 of the Legislative Journal.)

Mr. President, Natural Resources Committee will have an Executive Session at eleven-fifteen in the senate lounge, and the Banking Committee will have an Executive Session at eleven o'clock in the senate lounge. Banking at eleven o'clock, Natural Resources at eleven-fifteen. That's all that I have, Mr. President.

SPEAKER BARRETT: Thank you, Mr. Clerk. Proceeding then to Select File, LB 140.

CLERK: Mr. President, 140 is on Select File. Mr. President, the bill has been considered on Select File. On March 2nd the Enrollment and Review amendments were adopted. There was an amendment to the bill by Senator Chizek that was adopted.

March 14, 1989

LB 182, 340, 432, 483, 586, 628, 683  
714, 733, 779, 783, 785, 786

Judiciary Committee reports LB 182 to General File with amendments, LB 483 General File with amendments. Those are signed by Senator Chizek. Revenue Committee reports LB 779 indefinitely postponed, LB 783 indefinitely postponed, LB 785, LB 786, all indefinitely postponed. Those are signed by Senator Hall as Chair. (See pages 1144-45 of the Legislative Journal.)

I have a Rules Committee report, Mr. President, regarding proposed rules change offered earlier this session.

Judiciary gives notice of confirmation hearing.

Senator Wesely has amendments to LB 733, Senator Conway to LB 340 to be printed and Senator Robak to LB 628. (See pages 1146-47 of the Legislative Journal.)

Mr. President, Senators Landis, Schellpeper, Goodrich and Barrett would move to raise LB 683 and Senator Wesely would move to raise LB 432, both those will be laid over.

Senator Kristensen would like to add his name to LB 586 as co-introducer and Senator Conway to LB 714. (See page 1148 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Senator Wehrbein, would you care to adjourn us?

SENATOR WEHRBEIN: Sure, I can handle this. Mr. Chairman, I move we adjourn until tomorrow morning at nine o'clock on March 15.

SPEAKER BARRETT: Thank you. You've heard the motion. Those in favor say aye. Opposed nay. Ayes have it, motion carried, we are adjourned.

Proofed by:

Sandy Ryan  
Sandy Ryan

Barrett would move to place LB 683 on General File, pursuant to Rule 3, Section 19. Senator Landis offered his motion on March 14, Mr. President. It is on page 1147 of the Journal.

PRESIDENT: Thank you. Senator Landis, please.

SENATOR LANDIS: Thank you, Mr. President, members of the Legislature. LB 683 is commonly called the MIREF bill, Municipal Infrastructure Redevelopment Fund Act, and the bill, basically, takes \$4.5 million of cigarette tax money, directs it away from the General Fund and into an Infrastructure Redevelopment Fund to be distributed throughout the state on a per capita basis to the municipalities of this state. It is stated in the bill that this expectation of appropriation will continue for 20 years, knowing full well that one Legislature cannot bind another, but that this is our stated intention. One can call this, I think, a dedication of a revenue source. Those who want to shake a shibboleth in our face might want to call it an earmarking. I think that is the cross upon which I have been nailed before the Appropriations Committee by Senator Hannibal from the great municipality of Omaha. The measure is, I think, timely and also I think it is one that deserves our attention as a body because it, like the issue itself in municipalities, has fallen to the back burner. Infrastructure is the least attractive. It is the least compelling political agenda that I know. It is the one that doesn't turn out angry hordes of people. It doesn't turn out a long list of clients who are in need of a social service. In a municipal budget, it is the first thing to go and the last thing to stay. In the state budget, actually, frankly, we have this same thing. We get along to that budget crunch time and we have to choose between a new program that is very hot and has a good long list of providers, service vendors, and clients who want it, or the 309 funds that maintain state functions, and what happens, the 309 funds get cut back and the new program gets funded. Infrastructure isn't sexy. Infrastructure doesn't have a lot of political pull behind it, and yet infrastructure is vital to government. It is vital to the health of a municipality. It is vital to that municipality's lifeblood. It is ability to attract new business. It is ability to offer citizens a high quality of life. It is a strange dichotomy. Here is this thing that we take for granted, our sewers, our waters, our utility services, our public buildings, those things that we commonly use for all kinds of public services and public good. But because they have blended in, because they aren't people oriented in one sense, because we take them for granted,



they have no political clientele. And when it comes time for push to confront shove, infrastructure easily takes the back seat. LB 683 is meant to acknowledge that phenomena to direct an income stream to municipalities for the next 20 years with sufficient certainly that a municipality could bond against the money that they would be receiving. As a matter of fact, bond counsel have had a firm hand in writing 683. They have had that firm hand because, basically, what they have hoped is to create an income stream, which cities can then use to bond against, repay through this income stream for the next 20 years, and do one or two major projects in a community to revitalize what is a crying need for infrastructure update in this state. I would move for the adoption of the motion placing 683 on General File, pursuant to Rule 3, Section 19. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Schellpeper, please, followed by Senator Barrett.

SENATOR SCHELLPEPER: Thank you, Mr. President and members. I also rise to support this bill. I am rising, I think, to support it as a senator that represents all small rural towns. I have 15 small rural towns in my district. The largest one is about 4,000 some population, and this is also very important to these small rural towns. The residents of these small towns do not want to spend any money to repair streets, parks, sewers, water facilities, and things like that. So I think rather than have the fight to raise taxes, this is another way that they can get a little money each year to keep these facilities in repair. It is very important to these towns because they are just dying out there and they have no other way to raise any money, except for a project like this. So I think that we cannot only look at this bill as for large towns. This is also a small rural town bill because they are the towns that are really dying in Nebraska and so we need to do all we can to protect these small towns. So I would urge you to support this motion to pull this here bill this morning. Thank you.

PRESIDENT: Thank you. Senator Barrett, please, followed by Senator Warner and Senator Wehrbein. Senator Barrett, please.

SPEAKER BARRETT: Thank you, Mr. President and members. This is an issue which I am normally not associated with. As a matter of fact, I, over the past, have had great problems in supporting motions to pull bills from committees, notwithstanding the action of a specific Standing Committee. I have taken the

position that committees, generally speaking, know what they are doing, they know best. In this case, I don't believe that the committee has taken action on the bill. I don't believe the committee has taken a vote, if my information is correct, on what is to happen with this bill. Inasmuch as it is a priority designation, inasmuch as timing is critical, I have taken a look at it from that standpoint. I have also taken a look at it from the standpoint of attempting to represent my legislative district. That is a position that we all take. Selfish, perhaps, representative government at its best. I also have to take a look at it from the standpoint of a member of this body that represents the entire State of Nebraska. From a selfish viewpoint, from a person who tries to represent his legislative district, I take a look at an economic situation which has been devastating in my area. Three or four years ago, my area was looking at a 25 percent unemployment rate overnight. Not only is my community but the whole district, the whole area was adversely impacted. With the demise of a large manufacturing plant, the jobs and the opportunities went with the plant. Now with the announcement of the largest packer in the United States, I believe, setting up shop in my district, the impact on the infrastructure of that area is almost unbelievable. A sewage treatment plant which will cost in the area of \$3 million, the responsibility of my community is \$2.25 million.

PRESIDENT: One minute.

SPEAKER BARRETT: This is a type of bill which will help that area and that particular problem. Some say, and rightfully so, perhaps, that it isn't enough, it is just a drop in the bucket. I can appreciate that. I can understand it, but to some communities that drop in the bucket is a very, very large drop. Those others say that Omaha and Lincoln are impacted to the greatest extent, and that is true. They are. I don't think the money will be wasted because of the needs of the communities around this state. This money is going to be spread around to the point where every community, every municipality in the state is going to be impacted in some way. It is not a cure-all. It isn't of the scope that it can be a cure-all. I don't expect it to transform cities overnight. It won't. And perhaps it is an experiment, and only an experiment. Perhaps we need to take a look at it again later, but I do believe that in this particular case we need to adopt the motion offered by Senator Landis and others. Thank you, Mr. President.

PRESIDENT: Thank you. Senator Warner, please.

SENATOR WARNER: Mr. President and members of the Legislature, I would like to speak on two levels, first, an explanation of the status of LB 683 currently in the Appropriations Committee, and the discussions that have been held in the committee relative to the bill. We have had, if I remember correctly, I think three sessions in which it was discussed, and the... I would summarize those discussions as accurate, we didn't take a vote, but the reason is more important that we didn't take a vote was to summarize the reasons, at least, some people considered. This is taking \$4.5 million for an extended period of time from receipts to the General Fund. Normally in the process of all bills that are assigned to the Appropriations Committee that have an appropriation impact, and we all understand that a tax expenditure has no substantive different impact than an appropriation expenditure, the concern that or the discussion in the committee centered around the fact, and it is traditionally the thing that we do, is that once all the hearings are completed and all the requests have come before our committee, is being discussed, that we look at it in total and try to make recommendations to the body as a whole based upon the total references that have been referenced to the Appropriations Committee together with leaving within a total expenditure amount funds in anticipation for other A bills in legislation that others may consider, that are in other committees. So with that background, the feeling, I believe, of those who expressed themselves in the committee, at least, was that whether or not the bill be advanced ought to be a part of the total discussions of the level of appropriations that would be recommended by the committee, because it would have a direct impact of reducing the level of appropriation by four and a half... of the ability of appropriations by 4.5 million, not only now but for a number of years in the future. So that is the position of the discussion of the Appropriations Committee. Now I would like to address the bill and this part, aspect of the discussion, as I recall, hardly took place in the committee because we never got to the point of the merits. I would rise to oppose the bill for a number of reasons, and I am not unmindful of the fact that there are a number of co-introducers of the bill, and I can understand why one would feel that it was appropriate to place the bill on General File, if one is a co-introducer. But there are a number of things that you should keep in mind. Number one, it is the same argument that we have had before many times, and that is whether or not the state gives away its tax base or does it make

appropriations so it maintains some flexibility in the future years. I believe that was suggested that this could be enacted and could be looked at later. Well, that, obviously, is not the case. If you look at the provisions of 683 as currently as drafted, as indicated, it does permit the issuance of bonds and the using the revenue from this source as a pledge to reduce that debt service. As I understand the bill, it would be in effect for 20 years. Actually, the way it is drafted, a city, I believe, could issue bonds the 19th year and run for another 20 years, and under the provisions of the act,...

PRESIDENT: One minute.

SENATOR WARNER: ...no reduction in the total could be made even though there was only one municipality someplace that had that outstanding debt. So, in fact, if you pass the bill as it now stands, you are making a commitment of probably and potentially of somewhere between 20 and 39 years as to the earmarking of the revenue. That becomes even more significant because the bill is tied, not to so many cents of cigarette tax, but to a dollar amount. In effect, it becomes a first draw, and the Legislature cannot change its mind. The Legislature, by Constitution, cannot impair a contract, as we all well know, and the issuance of bonds by a local municipality could be a contract between that municipality and the bondholder. And, obviously, the Legislature under the provisions of this could not change that 4.5 million, no matter what. We all know the cigarette tax is a declining source of revenue, as of...it wasn't too many years ago that it was yielding in the vicinity of a million nine, between a million eight and a million nine per one cent, and now it is down to a little over a million five, and declining each year.

PRESIDENT: Time has expired. Thank you. Senator Wehrbein, followed by Senator Nelson and Senator Hannibal. But may I introduce a guest first of Senator Jacky Smith. We have Les Lawless of someplace and he is under the north balcony. Les, would you please stand and be recognized. I guess he has faded away. Sorry about that. Senator Wehrbein, please.

SENATOR WEHRBEIN: Yes, Mr. President and members of the Legislature, I would like to speak opposed to this. I admit on first blush it sounded like a good idea. I recognize the need for municipalities to have additional help in many of the areas that we are talking about, although I'd say most of these are

functions of properly I think would be of property tax. But if you look back, we are assessing now presently 27 cents on a pack of cigarettes. If you look at how that is earmarked now, 16 cents of it is going to General Fund, and the other 11 cents are earmarked. But of the 11 cents that are earmarked, I want you to understand how they all are going. They all are going now for the purpose of the general public; Nebraska Outdoor Recreation Fund gets 1 cent; Cancer Research Fund gets 1 cent; the universities and colleges get, I don't have the cents, but they get...some of the LB 410 projects, the Animal Science gets 4 cents, Cushing Coliseum, Morrill Hall gets 2 cents, and the remaining goes to other projects as determined by the Legislature. My point is that these are all going now for the good of the general public, the population at large, and I think it would be an error to change our policy now and start earmarking this specifically for, as it were in this case, small towns. In other words, it really does not benefit the entire population of the state but starts narrowing the focus of who would benefit from this, in this case, small towns and villages. It would then make a major policy shift away from use by the General Funds or from earmarking for the general population and go to the specific purpose of small towns across the State of Nebraska. They already have the ability to levy a sales tax. We have already granted every village, city, Class I, Class II, already have the ability to levy a sales tax, so we have already given away some of our ability to control the tax raising function by giving them ability to raise up to 1 1/2 cents sales tax. So we have given away some of our ability already. If we give away this ability, this earmarking, this is another 4.5 million out of the General Fund of the State of Nebraska, and so we not only are limiting, we then are taking away some of the tax base that we, in the State of Nebraska, have. I think it is a poor time to be taking away from our tax base when, obviously, we should be looking for increasing our tax base, probably down the road, as we look down the road. We are taking this ability of the State of Nebraska to levy away for 20 years. We are losing this ability to have this money for 20 years, whether it goes up, or if it may well go down. The point is that this is to come out first. We are probably going to lose more of our tax base as the cigarette money declines. So I think for two reasons, one is that it is a poor public policy to start earmarking this when up until now we have not done this that specifically. We have done it for the public good, for the use of state funds. This earmarks it now back to 537 villages, cities, towns across the state. The other thing is that I would

think in many cases, even though it is a decent amount of money, it really will not amount to that much for most small towns. So even though their concerns are legitimate, their needs are, obviously, legitimate, I don't think the money is that significant, and they might ought to be considering not only the sales tax expansion at the local level, which they have the option, but in most of these projects are legitimately a function of property, and it would seem to me that if it is a function of property, then ought to draw the funds to support that from property and not further erode our state base, which we presently have in the form of cigarette tax. So I would urge opposition to this attempting to pull from committee and ultimately opposition to 683.

PRESIDENT: Thank you. May I introduce our doctor of the day, please. We have with us from Senator Rod Johnson's area, Dr. Mark Jobman, and his wife, Laura, from Aurora, Nebraska. Would you folks please stand and be recognized. Thank you, Doctor, for being with us today, and we hope you are not very busy today. Senator Hannibal, please, followed by Senator Moore and Senator Chambers. Senator Hannibal.

SENATOR HANNIBAL: Well, Mr. President and members, I also rise to oppose the motion, and as so often is the case when you follow Senator Warner you become nothing more than redundant. In an attempt not to do that, I probably will anyway. I also oppose the issue on two bases, one as a committee member on the Appropriations Committee, and one on the public policy part of the bill, itself, the merits and demerits of the bill. The issue before us right now is whether this bill ought to be pulled from committee, notwithstanding the action or the fact that we have not taken action on it. We have had discussions in the committee about the bill. There, obviously, hasn't been enough votes in committee to advance it to the floor. But notwithstanding that, what Senator Warner has pointed out to you is the purpose of our committee and our workings over the last 49 days, or however many days, 45 days, we have had in the committee, and they have been on a daily basis, has been to try to look at all of the funding requests and all of the funding needs that we have had brought before us by all the agencies of government and the numerous bills that have been coming to us for specific types of funding. The goal of the committee is to try to look at funds available and needs that are there, and try to come up with some kind of a balance, some kind of a priority system that we will bring to the floor that will be our

representation of how we think the funds should be spent. Obviously, those of you who have been here before know that we get into some arguments here on the floor as to how those funds should be spent after we make our decision. I can tell you that we get into arguments within the committee as to what the proper priorities are, and there is good reason for that. The reasons, basically, are that we have before us right now hundreds of millions of dollars in requests that are over and above the amounts of funds that we have to spend. This bill, 683, is one of those. This is 4.5 million of the hundreds of millions of requests that we have over and above our current appropriation level. So we are trying and we are currently starting our third go-around of the budget, and now we are going to try to put together a package that we think is sustainable and meets the priorities of the state. This bill, 683, will be among those priorities. I don't think it is going to have a high priority in my mind but it may have a high priority in some of the committee members' minds. As a matter of fact, I think we have four members of the committee that are on the bill as co-sponsors. However, the point is, this is one piece of the puzzle, this is one area of appropriations that ought to rightfully fight for its level in committee with the other requests, whether they be requests from the Department of Social Services, whether it be requests from the Department of Corrections, whether it be from the Department of Economic Development, whether it be the bills that have been brought before us for state aid to schools, whether it be a myriad of issues. It ought to be a part of the process. I am opposed to pulling it out of that process and having it be on the floor separately. I realize there are many members of the floor that are on this bill, and if all of them think that, it is probably going to come out of committee. I hope it doesn't happen. I see some real problems with the bill itself, some of them that Senator Wehrbein has already enumerated, and some that Senator Warner has. What is it doing? It is general aid to municipalities is exactly what the bill does. We already have aid to municipalities. If the Legislature feels that we need to do this, we can simply increase state aid to municipalities. Sure, it is more general than this bill because this bill is geared towards infrastructure, but let me remind you that infrastructure in this context can say just about anything you want. It could be tourism. It could be the downtown development. It could be economic development things. It doesn't have to be sewer treatment, it doesn't have to be wastewater treatment. It can be a lot of things, so we have the



mechanism to do state aid to municipalities right now, and we can do it on an annual basis. Why obligate ourselves for 20 years, and, as a matter of fact, the way the bill reads, possibly 39 years, the way the bill reads, and I realize that is not the intent, it could be fixed. But why do that? We can do it on an annual or biennial basis right now and we can make it specific as we want and we can see that it is sustainable. Secondly, why do they want it for 20 years? Well, the reference was for bonding authority, for leveraging authority. I will remind you the municipalities already have that ability. They already can bond and they can already put themselves out and leverage that. They don't need this for that purpose. I think that the merits of the bill do not warrant bringing the bill up for General File debate by itself because I don't think it is that good a bill, even though the goal is good. But, more importantly, I don't believe it should be pulled out of the puzzle, pulled out of the mix. I think it ought to take its place along with the rest of the bills, the rest of the...

PRESIDENT: One minute.

SENATOR HANNIBAL: ...requests, the rest of the needs, and have them addressed in toto, and when we bring that to you, we will tell you our thought, and, certainly, there is room for adjustment, there is room for argument, there is room for disagreement, and that is when the floor should do it. It shouldn't pull this issue out by itself and say automatically this is a higher priority because I will guarantee you when you see what we do do, and when you see what we don't do, you are going to have some concerns about why those priorities, those that we did not do, are not here on the floor. And I would be hard-pressed to say that there won't be some priorities that I think are higher than this that will be not funded by our committee. I would urge that you leave the bill in committee, allow the appropriations process to take its course, bring you a complete and a full package and let it take its shots then, but not separate this by itself.

PRESIDENT: Thank you. Senator Moore, followed by Senators Chambers, Landis, Warner, Scofield, Ashford, and Lynch. Senator Moore, please.

SENATOR MOORE: Mr. President, quite briefly, I really, after listening to Senator Hannibal and Senator Wehrbein and Senator Warner's talk, there is really very little I can add. Just can



add that for me, personally, my first and foremost reason for not supporting moving this bill out of committee was for the fact that Senator Hannibal mentioned. There is a lot of things out there that we have to decide what is and what isn't in the recommendation that we ultimately make. That reason is the first reason I don't think now is the time to pull 683 out of committee and why I have never supported doing it, but the other thing that we really have to look at is the whole question of a policy issue that other senators have raised. Now if it is, I mean, believe it or not, I don't think anybody has mentioned the actual words "property tax relief". Yeah, this bill is, and I am sure eventually someone is going to have to, because that is usually what it is called because it is state money in lieu of property tax dollars, but as already has been mentioned, many municipalities already have some tools to address their own problems. I think that is the best way to address those problems is through, you know, the municipal sales tax and things like that. Those things are already in effect that could be used if that was the desire that that local municipality had. You know, it is not need-based state aid. It is strictly across the board. And, actually, Senator Schellpeper made some good points about some primarily very rural communities dying on the vine. Well, I don't know, actually the little amount of money those communities would get in 683 would probably not finance much of a project. I think if the Legislature wishes to do some things for municipalities, maybe we would be better off going down the avenue of the wastewater treatment where we have had grants and loans and things like that to assist these communities that actually needed it for a specific project, and maybe that \$4.5 million for infrastructure redevelopment could be better spent in a more targeted area, but for all the reasons that the other senators have mentioned, that is all I want to say and I will sit down then.

PRESIDENT: Thank you. Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I find myself this morning on very shaky moral and political ground because I am in agreement with Senator Scott Moore, Senator Warner, Senator Hannibal, and the others who have spoken against this motion. I have to make a disclaimer, I do not have any particular scruples about pulling a bill from committee so that is not why I am arguing against this motion. I want to go to the merits or lack of merit of the bill. Senator Hall has before us LB 262 which will allow Douglas County to raise the

sales tax an additional penny. As the state, and these things have been touched on, but maybe not in the same way that I will, begins to limit what it can have as a way to raise money by passing individual bills like Senator Hall's and others that particular special interest groups want, the state is less in a position to do those things that the state is required to do. The state, as a general government, is required to do for the citizens what they cannot do for themselves. Each one of these municipalities is governed by elected officials, and they ought to place those hard political decisions and take the heat for them. If we have a lot of cowards in these cities, lot of cowards, that is tough. The people who put them there are going to have to become aware of what they are and put more forthright people who are willing to do the things and take the decisions that under law they are authorized to do. There are provisions in the bill that make me feel the whole thing is a sham and a hoax and a l-i-e, a political l-i-e, but rather than say that word, I will say that we have before us a syntactical imprecision. If we are talking about true infrastructure in the sense of sewers, water, and waste treatment, that is not a matter of population, that is a matter of need. So if this bill is aimed at helping the infrastructure of those cities that need them, then we should not base it on population, because where the need is the greatest, the assistance will be the least. That is so palpably unfair that the Legislature should not participate in a sham and a hoax like that. Lincoln and Omaha will get the lion's share, obviously. That is where the population is. That is where the money will go, and I don't know why these little pointy head, pinhead communities will allow themselves to be dragged along in the train of these two big inconsiderate cities and say that their interests parallel those of Lincoln and Omaha. Lincoln and Omaha don't even want them in the same category or classification with themselves, but when time comes to have numbers, to have shock troops, to have the cannon fire, they get these little towns and little cities to tell whatever that group is that represents the municipalities to come down into this Legislature and say, this is a good bill and we all want it. They don't even know what they are talking about. They don't even know what is entailed because they have not read the bill. It is a thick bill and thick bills are not read. Why should those who are not going to get anything be supporting it? Because they have been tricked. Because they have been duped. Because they have been had. And I think the Legislature, if it does anything, has the responsibility to protect them from their own foolishness. This

is a bad bill. It is not fair. It will not do what is purported by those who support it. One other thing. We should not take money out of the General Fund in this fashion.

PRESIDENT: One minute.

SENATOR CHAMBERS: It is one thing to erode the tax base by allowing these communities to levy their own sales taxes. I don't think that is a good idea, but since they have that power, make them use it because they asked for it, now they have got it. But to actually take money that the state has coming to it and subtract that from the General Fund is a very unwise fiscal move. So I think with what I have said this morning, I have established my credentials as a dyed-in-the-wool conservative, and since I have been told by the Election Commissioner that I have to register with one of the parties or an Independent because the New Alliance Party failed to get 5 percent of the overall vote, I think the interpretation of the statute is wrong, I am thinking about registering as a Republican, and since this morning I have established my credentials as a conservative, I should be welcomed with open arms. I am thinking about it, haven't decided yet, but I am considering it.

PRESIDENT: Thank you. Senator Landis, please, followed by Senator Warner.

SENATOR LANDIS: Well, that sent the reporters scurrying to their teletypes, don't you think, "Chambers Becomes Republican." In the history of the theater you might recall in Greek drama a role of the Greek chorus which was a group of people who spoke with one voice this chant, over and over again, that had a great powerful effect, and all the wisdom of Greek drama was contained in these voices of the Greek chorus, and today we have had that same effect, the Appropriations Committee speaking as our Greek chorus, and, frankly, their arguments are all Greek to me. Let's go through them one at a time. As far as whether this is a giving away of the tax base in appropriation, read the bill. This is an appropriation. It is not giving away a tax base. It makes an appropriation of money with an anticipation of doing it over time. Don't we do that every time we put something in the base? We put it in there for one year and we anticipate that we will do it over time. We simply, in this bill, say we are going to put in a base and expect that base to last for 20 years, but we are not obligated. It is not the giving away of a tax base. That is a specious argument. Secondly, Senator Warner

incorrectly reads the bill. The bill does not authorize any appropriation beyond 20 years, and it does not bind us to do anything beyond that time. As a matter of fact, it doesn't bind us to do it next year, but there is certainly nothing in there. As far as the argument on impairing of contract, Senator Warner, there is no impairment of contract in this bill because the state isn't a party to the bill. We can't be impairing our own contracts if we are not a party to the contract. And, secondly, if we choose not to fund that contract, the municipal bond, then the obligation to fund the bond falls on the city, not us, which means that the contract is not impaired, and if you have a legal judgment of the contract, I would like to see it. I will tell you my years in law school told me that this is not an impairment of contract. As a matter of fact, Kutak, Rock, the foremost bond counsel in the city, in the state, rather, and the Midwest, says exactly the same thing. They say this is not an impairment of contract. They say it has no obligation beyond the expectation of the 20 years, thus, any securities issue with a pledge of MRF funds will be subject to the risk of nonappropriation by the Legislature, Kutak, Rock states. As presently drafted, 683 provides only for allocations from 1989 to 2009. Beyond 2009, there is no provision for any funding. Any municipality issuing securities with maturities extending beyond 2009, therefore, would have no basis for believing that MRF funds would be available, and it is unlikely that a market will exist for such securities. In other words, those arguments are simply not true. They are legal arguments that, in fact, the law does not make, but if you want to, there is a simple sentence you can put in page 7, line 7. I will be happy to offer it on General File that makes explicit that understanding. With respect to the question of whether or not, as Senator Hannibal suggests, we should wait for the budget bill, the budget bill is, as you correctly state, your impression of what the priorities of this state is. I confess that you should be entitled to that first offering of priority. However, it is our obligation to be able to compete with your sense of priority, not to be bound by yours and only your sense of priority, and this bill contains the language which is necessary to guide this funding mechanism to be appropriate and allow for bonding to be used against it. As a matter of fact, that is the critical difference because, as Senator Hannibal says, it is true, we could raise aid to municipalities, fair enough. On the other hand, that is not of a nature that is sufficiently guided to justify a bonding authority against it. You lose the very value of the bill if you simply raise aid to municipalities because

that is sufficiently uncertain and without a statement of intent like 683 has, so that the bond mechanism is unavailable to a city. And there is a critical difference, by the way, in doing that. If you allow us to use this for bonds, those bonds, admittedly, could be done now, but they would be paid by property tax monies, not sales and income tax monies which is the kind...oh, I am sorry, in this case, cigarette tax money which is of the basis of 683.

PRESIDENT: One minute.

SENATOR LANDIS: In other words, the difference is between bonding on property tax or bonding on cigarette tax monies without further burdening local municipalities on their property tax. With respect to Senator Chambers argument, I would like to point out that the same distribution of money in this bill is the same way we distribute the voting franchise in this state, one man, one vote. I don't hear you objecting to that theory when the time comes, but when you use the same principle in this case for distribution of money, Senator Chambers is up in arms. I think the point he had in small towns are well able to defend themselves and this principle on a municipal basis is certainly one that you endorse when it comes to something as precious as the franchise. With respect to Senator Wehrbein's argument, and that is that this does not have a public at large value, take a look at the list of the bills, it goes to 537 communities who are able to determine for themselves the best way to meet the needs of their people with respect to their infrastructure and the very unpolitically palatable difficult paying for things such as sewers and streets. I think that is a very good political statewide, border-to-border benefit that this bill carries.

PRESIDENT: Time.

SENATOR LANDIS: I hope you will endorse the measure and vote for the bill to be drawn from committee.

PRESIDENT: Thank you. Senator Warner, please, followed by Senator Scofield.

SENATOR WARNER: Mr. President, members of the Legislature, I was trying to think of some appropriate Greek mythology to respond to Senator Landis because I am sure there has to be an appropriate one, but it doesn't immediately come to mind. I

certainly would...neither would I want to argue with a law firm of such eminence as the firm that he quoted from, although I do believe that the bill says, it provides that the allocations, appropriations by the Legislature, to the MIRF shall not be reduced until all contracts and securities are completed or paid. Now it is true that every time we have issued any bonds, whether the state did it or otherwise, that they always have the limitation of subject to an appropriation because that is a basic constitutional provision, that one Legislature cannot obligate another, and I don't deny that. But as a practical matter, it doesn't work that way and I cannot ever think of a time when we did not do that, and as a matter of fact, I can think of one time when there were some bonds that were in jeopardy at a state institution that were not General Fund, but they were not able to meet them and we turned around and picked those up, too, or at least found a way to accomplish it. And to suggest that you are not tying up these appropriations, this designated revenue 4.5 million, for at least the 20 years, and I would still argue as the bill is drafted, conceivably beyond that, I think is not being realistic, and to say the words provide an out, but as a practical matter, you know that is not going to occur. But most of the talk has been on need. There is a need, and I wouldn't disagree for a moment. As I recall, we advanced a bill just the other day which dealt with secondary sewage treatment which becomes a revolving fund, a loan that the city has to pay back. Now I would suggest if you wanted to be helpful, then we ought to establish a similar kind of a criteria that secondary sewage treatment has, we identify need, the state assists if it chooses, and it use to, a portion of this 4.5 million over the next 20 years to assist those small communities in order to provide the kind of secondary sewage treatment that they need, but, no, we are not doing that. I believe Senator Landis has a bill which permits them to borrow the money and then pay it back over a period of time, make far more sense. Utilize this money in that area where we know under the environmental controls that are coming down are going to have to be done, and, again, here Omaha has an immense need in this area as does many of our small communities across the state. Talk about \$4 per person, I don't know how much, you know, in a town of 4,000 or 1,000 people, that is \$4,000 a year, not a great deal of money that is going to accomplish the kinds of things that people are thinking in terms of traditional infrastructure types of activity. So I would urge that you do not place the bill on General File, that you establish...stay with the traditional method of working this through an

appropriations, if the local community wishes to issue bonds for any of these purposes, they certainly can have the stability of their local revenue to do it with, and then if you wish to make just a general increase to municipalities as state aid, that, obviously, can be done and will serve the identical purpose of this...

PRESIDENT: One minute.

SENATOR WARNER: ...as far as they are locally concerned, but you would maintain the kind of flexibility the state ought to have. There isn't any question but what the cigarette tax traditionally has been used for capital construction projects, even beyond what the statute sometimes require, and there are immense needs in that area, clear across the state, that are going to have to be addressed, in part this session, but, certainly, they are going to be addressed over the next few sessions. Any reduction of the state to provide the revenue to do those variety of capital construction projects are going to delay the implementation of those as well. I would urge that you do not get away from that very basic position of not putting the state in the position where a portion of its revenue is going to be tied up by one single community out of that 537 by the issuance of bonds for the next 20 years.

PRESIDENT: Thank you. Senator Scofield, please, followed by Senator Ashford.

SENATOR SCOFIELD: Thank you, Mr. President and members. This is probably one of the most difficult bills I have had to deal with this session. My name is on it and I will tell you why it is on it in a minute. But, obviously, I am not inclined generally to depart from the policy of my committee. Senator Landis talks about the Greek chorus. I am not going to sing exactly the same tune that you have heard everybody else sing today, and yet I have some concerns about this bill. I do not disagree with any of the concerns that anybody has raised here today. It does erode the state tax base. And, Senator Chambers, you are right, you do give the majority of the money to the big guys, and you know where I come from that doesn't sell very well, and, yet, what I hear from all those little guys is, well, look, we know that just to get a few bucks we always have to give a few million to Omaha. We have sort of accepted that is the way the world is and, frankly, folks, we need those few bucks. So I guess I would also agree that probably many of



these communities are not going to have enough money to do infrastructure but I think this bill points to an extremely important issue that Senator Landis addressed in his opening, and that is, most people don't get very excited about doing infrastructure but, frankly, ladies and gentlemen, if we don't address infrastructure in this state beyond the highways, which are extremely important, I think a good share of this state is going to flat dry up and blow away. So I think we probably ought to at least take a look at this issue in that context, and maybe this is the bill that really causes us to start focusing very seriously on that, and to figure out what the right solutions are to do that. There is very definitely a perceived difference of interest where I come from, and I suspect throughout most of this state, between what state government wants and what local communities want. In fact, I think that perceived difference of interest has been generated largely by the kinds of tax policies that we have adopted over the last few years, that somehow it is okay to pass a tax policy that benefits primarily metropolitan areas, but now it is probably not okay even to throw a few cents out to the rural communities, and, once again, it will be a few cents because I would reiterate once again, Lincoln and Omaha will get the lion's share of this. And I would like to suggest on this bill that it is time for us, as responsible representatives of everybody in this state, to quit putting ourselves in a competitive position with local governments. It is time for state and local governments to sit down together and figure out how we are going to cooperate, how to address a diversity of needs across this state, and, frankly, the needs in the rural areas are considerably different than the needs in the urban areas, and the folks that I represent feel very much left out of this ball game. So I think in this era of basically go it alone federalism, which hasn't changed even though the President has changed, it looks to me like the continued message we will get from Washington is, good luck, local governments, we took away your revenue sharing; good luck, state governments, we are going to continue to mandate a whole range of programs which we are going to see impact on our budget this year, but we are not going to give you any money. And so I would suggest that rather than all of us jealously sitting on the state tax base and saying somehow we have got to keep that money away from those nasty local governments, and I am not wild about the distribution formula in this bill, I am not wild about some of the provisions, but, nevertheless, if this is the bill it takes for us to move in that direction, then maybe this is the bill we



ought to use as the leverage to make a commitment to not just metropolitan Nebraska, but the entire State of Nebraska and, particularly, rural Nebraska because I don't think there is any belief out there right now that there is any commitment to rural Nebraska. This is probably a poor bill to say it is going to solve the problems of rural Nebraska, and I wish I could say there was some other initiative out there that I thought really would, but we need to start having that serious discussion and I say this bill is more of a policy issue along those lines than whether it is good policy or bad policy to pull it out of the Appropriations Committee. I don't think the world is going to come to an end today if you pull it out of the Appropriations Committee. I don't like going against my committee. I have not pushed strongly to put this bill out of committee out of respect for that committee, but, nevertheless, I think it is time to kind of push those issues and talk about how we are going to address infrastructure, how we are going to address the needs of every community in this state, and are we, in fact, using our resources in the best way to treat people equitably across the state. Thank you.

PRESIDENT: Thank you. Senator Ashford, please.

SENATOR ASHFORD: Thank you, Mr. President and members. I stand here somewhat in the same quandary that Senator Scofield does. I am a signer on the bill and I support the bill. However, I will not support the motion to bring the bill to the floor for a couple of reasons. One, I agree with Senator Barrett, Speaker Barrett, when we...I know when my tort bill came on the floor and there was a concern about bracketing that bill until a later date, and I stood up and really probably single-handedly killed my own bill by going forward with that bill that day, LB 159. I think the process is important. I intend to support LB 683 when it comes before the Appropriations Committee. Last year Senator Landis had a bonding bill up which I opposed, and I am not certain I made the right decision on that. I think that Senator Landis has come up with some very imaginative, innovative ideas in this area that are really important to be dealt with. I last week read Governor Kean's book about his experiences in New Jersey, and one of the chapters was about the funding of the Meadowlands project where a giant stadium is located right across the river from Manhattan, and one of the mechanisms that was used to create the Meadowlands complex was a rather complex series of financial arrangements including a state bonding provision that was funded by state tax revenues, not by local

subdivision tax revenues, and with the controversy we have had in Omaha about where we put a convention center, where we don't, I think that the real issue is money and funding. If Omaha is going to do some innovative things, some of the innovative things that they need to do, I think they are going to need some assistance from the state, and in order for Omaha to accomplish that, I think that greater Nebraska is also going to have to have a direct benefit as well and in an equal, fair, equitable way, and as Senator Scofield mentioned, maybe there are some problems with the distribution formula. I have a few problems with some of the standards that may be slightly vague for my taste, but I support the bill. I will support the bill when it comes before the committee and urge that it be advanced to the floor at the appropriate time. I think Senator Barrett was right on the process argument when my 159 came up for a vote. I am going to stick to that argument. Senator Chambers, when I first pressed my light, indicated that this was a banning bill rather than a bonding bill, and that is why I pressed my light in the first place, but now that I did, I wanted to have an opportunity to talk, so thank you very much. Just a second, I am going to give the rest of my time to Senator Chambers.

PRESIDENT: Senator Chambers, about two minutes.

SENATOR CHAMBERS: Oh, that will be enough. Mr. Chairman, members of the Legislature, Senator Landis spoke very rapidly and touched on a lot of subjects, but I am sure he was facetious when he tried to compare one person, one vote to a distribution formula for cash. The two do not...that does not compute because between things disparate in nature, there can be no comparison. He even went to mythology. Senator Warner couldn't think of anything off the top of his head. I can't either but I remember the biblical story of Isaac and Jacob. Jacob and Esau were brothers. Isaac was the father. He was going to bestow the birthright on the eldest son. That would have been Esau. Jacob and his mother conspired to trick Esau out of his birthright, so Esau, being a hunter, was out in the field hunting, got very hungry, needed some food. Jacob took advantage of his extremity, gave him some pottage, persuaded him to depart with his birthright, then in order to trick Isaac, whose eyes were failing, did not expect to be tricked by his son, Jacob and his mother sewed some animal skins onto Jacob because Esau was a rugged man of the outdoors and very hairy. Jacob was a man of the Legislature, very smooth, slick and cunning. So when the time came to have the birthright

bestowed,...

PRESIDENT: One minute.

SENATOR CHAMBERS: ...Esau wanted to touch the son and see if he were being tricked. So he ran his hands all over Jacob and felt the animal skins. He said you have the skin of Esau but the voice of Jacob. Esau are the little cities that are selling their birthright for a mess of pottage. Omaha and Lincoln are Jacob, who would trick these little cities in their extremities to give up that which is theirs. And I am sure you all remember, Senator Landis, especially, the parable of the rich man and Lazarus. The rich man fared sumptuously every day, Lazarus ate the scraps that fell off his table.

PRESIDENT: I am sorry.

SENATOR CHAMBERS: If the little towns are going to put themselves in the position of eating scraps, they can, but their representatives ought to uphold their dignity and let them not do this thing which they are willing to do for a nickel or a dime.

PRESIDENT: Thank you. Senator Lynch, followed by Senator Haberman.

SENATOR LYNCH: Yeah, Mr. President and members, I was reluctant to stand and say this, but I guess I have to. Senator Hannibal did a very good job explaining the appropriations process and I can understand that. You know I have had some concerns with the appropriations process for a long time now. In this particular case, he is absolutely right. A number of mistakes were made by a lot of us. For example, on LB 89 for teachers, I guess based on what Senator Hannibal describes as the process, we should have had 89 part of the process of appropriations to begin with because we know if it isn't, only those bills that are not part of that process will have to be considered if they, in fact, pass with attached amendments for taxes. Interesting, isn't it? None of the other spending measures, the \$100 million that may be proposed by the Governor, hundreds of millions of dollars may be spent by the Appropriations Committee, none of those will have attached or even will have it considered as an attachment any kind of a sales tax increase. That, in itself, indicates how interesting, at least, the system we have is. We probably made a mistake on the bill that I also introduced that had to do

with indigent health care. We did, in fact, go to the Appropriations Committee after it got through Select File so that it can, in fact, be hopefully part of the process. What is interesting about it is, though, we don't know. Most of us, in fact all of us, except those on the Appropriations Committee, and even right now even the Appropriations Committee don't really know how it is all going to come out. But if we have to wait and take our chances three or four days before the session ends or a couple of weeks, whatever it might be, we will be ill-equipped and very, unfortunately not very well prepared to argue or debate regarding the priorities that may be recommended by the committee. So for that reason, you see, only for that reason, I support this legislation, and I have heard the philosophical, and religious, and moral arguments about who is going to be the lesser of the brothers and receive the lesser of the money, but this is one of those appropriations processes where we should have on the floor the chance to consider the priorities. Not the priorities that have traditionally exist, not protecting the status quo, and increasing those budgets that are, in fact, the status quo to meet expanding needs, but, hopefully, someday to begin on a level playing field where we don't exercise these poor folks to come to our Standing Committees with their wishes and their hopes and their dreams knowing full well...without knowing full well that they probably will never have a chance to be seriously considered, unless, of course, they were a part of the appropriations process. So you see, this is just one of those examples with this legislation that justifies my supporting pulling the committee (sic) to the floor notwithstanding the actions of the committee because the committee, at the present time, can't tell us what their priorities are. Most of us can't either. But for this kind of a priority and this kind of a need to have a fair shake, at least as fair a shake as is possible, I think it is important for us to pull this legislation to the floor for consideration.

PRESIDENT: Thank you. Senator Haberman, followed by Senator Schellpeper.

SENATOR HABERMAN: Mr. President and colleagues, I step up to this microphone today with a heavy heart. My heart is heavy because there is great sadness in the towns and villages throughout the land of MIRF. The Smirfs, as the supporters of MIRF are called, are very sad because they have no cabbage. Years ago, they were able to raise much of their own cabbage, but over the years, the great council decreed that most of the

cabbage will be raised in the name of the kingdom, and that the kingdom will distribute the cabbage back to the towns and villages. For the past several years, the petitions that the Smirfs sent to the great council went unanswered, but they understood, because of the great cabbage shortage, no one else got any cabbage either. So they remained silent with their desires. But this year, it is generally agreed that there has been a great cabbage crop. In fact, hardly a day goes by that someone doesn't predict more cabbage than expected. And this year as the Smirfs looked around their towns and villages, they found that many sacrifices were made because of the past cabbage shortage. They found their public gathering places in disrepair and in need of maintenance. Their water did not taste as sweet, and in some cases, new Smirfage treatment plants would have to be built. They held Smirf town meetings, and heard the desires to build centers where Smirfs can gather to be happy, and to attract visitors from other lands. They found hundreds of little projects requiring bricks, and the mud to place those bricks. But, alas, they have no cabbage. Again they petitioned the great council, and asked for the cabbage to do these things which must be done. They asked for the return of some of the cabbage which rises like smoke on the Plains, is blown to the east, and never seen again. And, lo and behold, many members of the great council heard them and agreed to help, and in so doing, became like Smirfs themselves. They signed on with joy in their hearts. The Smirf's petition was referred to the great Cabbage Committee, and on the day the citizens may be heard, Smirfs sent their representatives from all parts of the kingdom to voice their support. They came from the great cities in the east, from the "Wei hing" country in the west, from where the corn grows tall in the south, and from the land of the Lambs in the north. They were joined by worker Smirfs, Chamber Smirfs, and even the tight-fisted banker Smirfs. Not one word of dissent, not one word of dissent was heard, and the brave little hearts of the Smirfs were filled with hope. But now, one full moon has passed and Smirfs wonder: Where is our petition? Will there not be any cabbage for us? What should we tell them? As most of you know, the Cabbage Committee, which meets in darkness below this great hall, the Cabbage Committee, which decides who gets the cabbage that is collected throughout the kingdom still has it. That's where the Smirf's petition is. Rumor has it that there are even a couple of Smirfs on the Cabbage Committee, maybe even a couple of closet-Smirfs, but, alas, there are also the Grinches. The Cabbage Committee has not reached a decision on the Smirf's petition, and the Smirfs on the committee

hesitate to raise their voices lest the Grinches take away their cabbage, too. Shame on you Grinches! Shame-shame on you! Mr. President, that is no way to treat a Smirf. And so, colleagues, the Smirfs are unhappy. They fear that before the Cabbage Committee decides who gets the cabbage, there will once more be none for the Smirfs.

PRESIDENT: One Grinch, I mean one minute. (Laughter.)

SENATOR HABERMAN: So they ask that this petition be brought up before the great council and that their cause be heard in this great hall. They tell us that their cause is our cause, their needs are our needs, and their happiness is our happiness. Mr. President and colleagues: Wir sind alle der Smirfen Hier! Wir sind alle Smirfen! We are all Smirfs here, except for the Grinches. I support the motion, Mr. President.

PRESIDENT: Thank you. Senator Schellpeper, please. Can you top that?

SENATOR SCHELLPEPER: Mr. President, after that, I will just call the question.

PRESIDENT: The question has been called. Do I see five hands? I do, and the question is, shall debate cease? All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 25 ayes, 0 nays, Mr. President, to cease debate.

PRESIDENT: Thank you. Senator Landis, would you like to close?

SENATOR LANDIS: Mr. President, I want to thank the people who have spoken in favor of this measure, Senator Scofield, Senator Lynch, Dr. Seuss', and ask you to vote to pull this bill from committee. I will tell you why. There is just a couple of issues I want to talk about in the bill, itself, and part of on bringing it forth. Senator Warner and I have had a colloquy about what constitutes impairment of contract, and I appreciate moving the issue away from its legal context because, in fact, what we are talking about is practicalities, and that is a very fair change of scene. What really is the practicality, and Senator Warner is correct. It is the practicality of this bill that we try to put into the base and expectation of \$4.5 million for the next 20 years for municipal infrastructure. That I confess is exactly the practical implication, and that means

something as well. Put the shoe on the other foot, Senator Warner. That also means that if that is the case and it runs out after 20 years, that if a city was going to try to float a bond 19 years into that where there was no expectation of money after that time, that there would be no market for such a bond. I will play by the practical rules. I expect the same realism in return. And no bond would find a market with no promise for repayment on that basis. That is certainly what Kutak, Rock tells us. Now with respect to the issue in the bill, itself, I guess you get to decide whether or not you want to pull it from committee or not. It is critical, however, to distinguish this bill from the suggestion of the Appropriations Committee members that let's wait for the appropriations bill and simply manipulate the aid to municipalities number. That is conceptually very different, the reason being there is no certainty, and, in fact, that very practicality that Senator Warner has wrested out of me that we are trying to stick this into the base for 20 years is the critical difference. Because if it is part of the base, now that base can change, it is true. We go in and we take things out of the base every now and then. We get to a special session where you have to cut, that base is available to be cut, but it is in that base with the expectation it is going to stay there. If it is part of the base, it becomes sufficiently certain that municipalities can find people to buy securities. The basis of repayment is the existence of this money, and that is the critical difference. You can bond against this income stream. You can't bond against the income stream of our aid to municipalities, and the critical difference then is, if you are going to have a project of infrastructure that is going to require a bond, presently today you have got to use property tax. If you pass 683, you can use cigarette tax funds to fund it for the next 20 years. That is the practical application of the bill, and I am not trying to pull the wool over anybody's eyes. These aren't our bonds. We are not on the hook for them but, in fact, frankly, you are exactly right. The expectation is that you create this income stream and you leave it lay there for 20 years so that cities can expect it, bond against it, and use that money to replace property tax dollars to do infrastructure needs which are from border to border in this state. I urge the adoption of this motion.

PRESIDENT: Thank you. The question is, shall LB 683 be placed on General File pursuant to Rule 3, Section 19. All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please. A record vote has been requested.



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LB 77, 228A, 258, 456, 468, 587, 597  
683

CLERK: (Read record vote. See pages 1252-53 of the Legislative Journal.) 28 ayes, 11 nays, Mr. President, on the motion to raise the bill.

PRESIDENT: The motion passes. Anything for the record about now, Mr. Clerk?

CLERK: Yes, sir, I do. Your Committee on Appropriations, whose Chair is Senator Warner, reports LB 258 to General File, and LB 468 to General File with amendments, signed by Senator Warner. Health and Human Services Committee reports LB 456 to General File with amendments. That is signed by Senator Wesely. Senator Haberman has amendments to LB 587 to be printed; Senator Abboud to LB 597. (See pages 1253-56 of the Legislative Journal.)

Mr. President, a new A bill, LB 228A. (Read for the first time by title. See page 1257 of the Legislative Journal.) That is all that I have, Mr. President.

PRESIDENT: We move on then to LB 77.

CLERK: Mr. President, LB 77 is a bill introduced by Senator Warner. (Read title.) The bill was introduced on January 5. It was referred to the Banking, Commerce, and Insurance Committee for public hearing. The bill was advanced to General File and I do have committee amendments pending by the Banking, Commerce, and Insurance Committee, Mr. President. (See page 679 of the Legislative Journal.)

PRESIDENT: Senator Landis, are you going to handle the amendment? Senator Conway, are you prepared to handle that as Vice-Chairman of the committee?

SENATOR CONWAY: Mr. President and members, speaking on behalf of the committee, the committee amendments that were applied to LB 77 were purely technical. The committee amendments would insert and amend Section 81-8,239.01 to give the State Risk Manager the authority to carry out the duties prescribed by the bill as introduced, purely technical, but giving authority to the State Risk Manager.

PRESIDENT: Thank you. Senator Hannibal, did you wish to speak about the committee amendments. I don't see Senator Hannibal



March 23, 1989

LB 154, 155, 250, 254, 265, 272, 281  
421, 503A, 619, 623, 683

SPEAKER BARRETT: Thank you. Anyone else? A record vote has been requested. All in favor of the advancement of the bill please vote aye, opposed nay. Shall LB 281 be advanced, that is the question? Have you all voted? Have those who care to vote voted? Record, please.

CLERK: (Read record vote. See pages 1314-15 of the Legislative Journal.) 25 ayes, 18 nays, Mr. President, on the advancement of LB 281.

SPEAKER BARRETT: The bill is advanced. Anything for the record?

CLERK: Yes, Mr. President, I do. I have amendments to be printed to LB 272 by Senator Landis; and LB 683 by Senator Wehrbein. I have a new A bill, LB 503A by Senator Goodrich. (Read for the first time by title. See pages 1315-16 of the Legislative Journal.)

Mr. President, I have a lobby report for this past week; a confirmation report by the Judiciary Committee. It is signed by Senator Chizek. Notice of hearing by the Rules Committee for Thursday, April 6.

And, finally, Mr. President, bills read on Final Reading this morning have been presented to the Governor. (Re: LB 265, LB 619, LB 155, LB 623, LB 154, LB 254, LB 421. See page 1317 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. The Chair is pleased to note that Senator Labedz has a very special guest under the south balcony, a friend of hers, Tom Kelly, who is a student at Westside Middle School. Tom, would you stand up and take a bow. We're glad to have you with us. Also observed under the south balcony is a former member of this body, Senator George Syas of Omaha. Senator Syas. Nice to have you back, George. LB 250, Mr. Clerk.

CLERK: Mr. President, Senator, I have E & R amendments on LB 250, first of all.

SPEAKER BARRETT: Senator Lindsay.

CLERK: E & R amendments, Senator.

March 27, 1989

LB 147, 154, 155, 254, 265, 340A, 421  
619, 623, 683, 781

SPEAKER BARRETT: The amendment is adopted.

CLERK: Mr. President, Senator Schmit would move to amend the bill.

SPEAKER BARRETT: Senator Schmit. Senator Schmit, on your amendment. It is withdrawn.

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

SPEAKER BARRETT: Thank you. Senator Chambers, this would be your closing.

SENATOR CHAMBERS: I am not going to close. I will just move to advance LB 340A to E & R Engrossing.

SPEAKER BARRETT: Any discussion? Seeing none, those in favor of the advancement of the bill please signify by saying aye. Opposed no. Carried. The bill is advanced. Mr. Clerk, anything to read in?

CLERK: I do, Mr. President, thank you. A communication from the Governor to the Clerk. (Read. Re: LB 265, LB 619, LB 155, LB 623, LB 154, LB 254, and LB 421. See page 1350 of the Legislative Journal.)

Mr. President, Senator Wehrbein has amendments to be printed to LB 683; Senator Smith to LB 781. (See page 1351 of the Legislative Journal.) That is all that I have. Mr. President.

SPEAKER BARRETT: Thank you. To the next bill, Mr. Clerk. LB 147.

CLERK: Mr. President, the next bill is LB 147. I have no E & R to the bill, Mr. President. I do have an amendment pending, however, from Senator Ashford. Senator, this is AM0891. (See pages 1351-52 of the Legislative Journal.)

SPEAKER BARRETT: Senator Ashford, please.

SENATOR ASHFORD: Thank you, Mr. President and members. This amendment concerns the addition to the separate juvenile court bench in Douglas County of a third juvenile court judge. If I might give a brief history, there are two separate juvenile courts, three, actually, separate juvenile courts in the State

good faith to try and work these things out if we can. I think we have a good bill here. I think we have a bill that is very reasonable. I think it is one that we have thought about for a long time and we've made some reasonable adjustments in the CON process and I think it's one that we can all very easily live with because there still will be a CON process. Once a new service or a capital expenditure reaches the thresholds, there will still be CON review. There will still be CON review for something like the Medical Center. We will have that yet in place. We are not totally eliminating CON. Totally eliminating CON is not something that I would even desire to do. I don't think that we need to do that. I'm not sure whether it would apply to the Pharmacy Building or not, but it might, I'm not sure. With that, Mr. Speaker, I would simply urge the advancement of the bill.

SPEAKER BARRETT: The question is the advancement of the bill authored by Senator Baack and others, LB 429. Shall it be advanced? Those in favor vote aye, opposed nay. Have you all voted? Please record.

CLERK: 29 ayes, 6 nays, Mr. President, on the advancement of 429.

SPEAKER BARRETT: LB 429 is advanced. Senator Morrissey is announcing the fact that he has some guests in the north balcony. We have 15 K through fourth graders from Locust Grove School in Brownville, Nebraska, with their teacher. Would you folks please stand and wave and be recognized. Thank you. We're glad to have you with us. Anything for the record, Mr. Clerk?

CLERK: Mr. President, Senator Abboud has amendments to LB 429 to be printed. That's all that I have. (See page 1699 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. Moving then to LB 683.

CLERK: Mr. President, 683 was a bill introduced by Senator Landis and a number of members. (Read title.) The bill was introduced on January 9, referred to Appropriations. On March 14, Senator Landis offered a motion to place the bill on General File, Mr. President. That motion was considered on March 21 and prevailed. The bill is now before the Legislature. I do have amendments pending.

SPEAKER BARRETT: Senator Landis, would you like to open on the bill and then we'll go to the committee amendments, please. They are your own amendments?

SENATOR LANDIS: I think I have one and I think Senator Wehrbein has one and Senator Conway has one. There are no committee amendments.

SPEAKER BARRETT: Okay, I'm sorry, but would you like then to open on the bill and then we'll go to the amendments?

SENATOR LANDIS: Sure.

SPEAKER BARRETT: Thank you.

SENATOR LANDIS: Having had the benefit of the argument to raise 683, the body, I think, is familiar with the MIFR bill. I will take but two or three minutes just to outline a couple of basic points that are important to keep in mind. LB 683 appropriates \$4.5 million for a system of state aid to cities, if you will. That state aid is basically limited to municipal spending for infrastructure needs. And there is the further contemplation and expression of intent language to do this for the next 20 years. Knowing that, of course, one Legislature cannot bind another Legislature, we have tried to establish this idea in sufficient particularity that cities would be able to find bond counsel to support during the pendency of this period of time a sufficient income stream to justify the letting of bonds. The proceeds of the infrastructure change or from any municipal efforts, any infrastructure work that they may have done, the proceeds necessary to pay off the bonds would come from the continued appropriations under the formula of 683. Because that was the case, because the cities could expect to receive this money over time from the state, the contemplation would be that revenue bonds could be financed at the local level out of future appropriations consistent with LB 683. I would like just to in the two or three minutes I want to talk about the opening to make clear to the body a couple of the conclusions reached by our Nebraska Department of Economic Development's research division in 1986 with respect to infrastructure. We did a study called Nebraska Can Work. Part I was policy prescriptions for solving the infrastructure in Nebraska and the infrastructure problem in Nebraska was characterized as this. We have \$8.5 billion of infrastructure investment in this state that in

some cases it is not only adequate but quite well maintained, in others it is not. But what we find in the course of the last 20 years is this trend in the United States and in Nebraska for expenditures as a percentage of gross product revenue to decrease, the trend was upward for expenditures per capita but infrastructure expenses represented a smaller share of output in government revenues and personal income. While more is being spent per person, in other words, the infrastructure investment represents a lower budgetary priority in Nebraska and in the nation and, of course, in the last 20 years. Well, think about it, in the last 20 years the demand for social services has picked up. The welfare state, if you will, has not been curbed and we have spent our money on people. Well and just. Education, well and just, certainly with a great need... a great element of demand and that's been a sensible thing to do. Constituents, by the way, as we all know as politicians, turn out for the library. They turn out for different human services and recreation programs and the like. What the citizenship does not turn out for at hearings are new sewers. They're not there for updating their electricity system or their natural gas distribution system. They're not there for the infrastructure costs, they are there for the other social services kinds of expenditures. And what's happened, that chart tells us, according to our Department of Economic Development, is that we have had a lowering of infrastructure as a budgetary priority in this state and that reflects the national trend. Capital outlays, like total expenditures, for infrastructure are receiving a smaller share of resources and, therefore, represent a lower budgetary priority in Nebraska, concludes the report. Not only that, but Nebraska has invested less heavily than the national average for sanitation, sewage, airports, and water supply and water cleanliness than has the rest of the country but has invested greater than the national average in highways. Certainly, our roads needs are very great. Certainly, that represents why we have a high amount of commitment to roads. But I would suggest to you that the existence of a permanent funding mechanism has also justified why we have spent money for roads above the national average. We have a segregated financing system for road expenditures and that is the one area of infrastructure that this state has done above average, to its credit. The MRF bill, 683, attempts to take infrastructure issues and build up somewhat of a wall around them and to learn the lesson of the roads expenditures and that high commitment we have to infrastructure there and carry that theme over to the very unsexy business of keeping and maintaining good sewage

systems, good water systems, good sanitation systems and the like. And, with that explanation of the rationale of 683, I will close, allow for the amendments to come up in their order and let's deal with them one at a time. Thank you, Mr. Speaker.

SPEAKER BARRETT: Thank you. To the first amendment, please, on the bill.

CLERK: Mr. President, the first amendment I have is by Senator Wehrbein. Senator, I have a note that you want to withdraw this amendment, however.

SENATOR WEHRBEIN: Withdraw the first one, that's correct. Now go to the second one.

CLERK: Mr. President, Senator Wehrbein would move to amend. (The Wehrbein amendment appears on page 1351 of the Legislative Journal.)

SPEAKER BARRETT: Senator Wehrbein.

SENATOR WEHRBEIN: Yes, Mr. Speaker and members, this simply is still the three cents. The first one was not drafted correctly, the first amendment, and this is the same three cent cigarette tax increase but drafted correctly. All I simply want to do is to bring to the attention of the body that by doing what we have done, the dedicating to the municipal infrastructure situation, taking three cents away from the cigarette tax we have reduced the General Fund income by 4.5 million. It was my thought that if we are to do that, then we ought to realize that we have, in fact, reduced \$4.5 million of our revenue and to realize there is no free lunch. Someone is going to have to pay for this one way or the other and it would only be proper to raise the cigarette tax from 27 to 30 cents to make up for this loss in funding. The state has historically used this money primarily for building fund and other areas, much of it which also flows into the General Fund after the initial withdrawals have been made from the cigarette tax. I would just submit to you that if we are going to give away part of our tax base, we're going to have to pay one way or the other. Our budget that we are going to be putting together in its finality, perhaps by tomorrow noon, is, obviously, going to have to be restricted yet because our income is still not going to be the proposed income. We have many millions of dollars being spent on the floor here. We're not going to have the revenue even in the good times to

meet these projections. Even if we have the revenue over the next year, it is not going to be sustainable, in my mind and many of our minds. This MIREF bill goes out 20 years, that's a loss of revenue for 20 years, so I think it would only be proper to add three cents on, raise our cigarette tax from 27 cents, which it is now, to 30 cents. I remind you, for...I will give selective figures, I will admit, from several states, not all states are as high as ours now. On the other hand, Iowa is 34 cents a pack now. Washington State is 31 cents; Minnesota is 38 cents; Wisconsin is 30 cents. So there are several as high or higher than we are. Admittedly, there are some, or several, many, most, majority are lower than us. That should be beside the point. The fact that Nebraska needs the revenue, I do not feel that we can afford to give away \$4.5 million of income this year, let alone down the road and specifically down the road. We just can't afford to give away that tax base down the road no matter how good the cause. I voted against the original proposal to pull this from committee for that reason. It's not that I don't recognize the fact the municipalities need this money for their infrastructure but the point is that somebody has to pay and when we give away some of our state base that historically have been using, we've not...you're probably going to hear more about it in time of the good causes that we really need in some of our capital construction funding that we have needs that are begging. So I would urge you to consider three cents. I'm not after the tobacco industry in this case, it's just the fact that if we're going to give away three cents, then I maintain we ought to replace it, and that is my proposal.

SPEAKER BARRETT: Discussion? Senator Schellpeper, followed by Senator Landis.

SENATOR SCHELLPEPER: Thank you, Mr. Speaker and members, I rise in opposition to this amendment. We didn't put any tax increase when we debated LB 84 the other day and that's a lot bigger expenditure than this. And I don't think that we should put a tax increase at this time. I'm not saying that eventually we may not have to do something like this, but I think on first reading we do not have to put a cigarette tax at this time. LB 683 is my priority bill this year and I do not think that by putting this on we are really helping the cities. I think we need to eventually let this bill work its way through the system like all the others and then at the end if it looks like we have to do something, we can. But, at this time, I think we should reject this amendment. Thank you.

SPEAKER BARRETT: Thank you. Senator Landis, further discussion, followed by Senators Hall and Warner.

SENATOR LANDIS: Mr. Speaker and members of the Legislature, I hope that I have not in any way minimized what LB 683 is. LB 683 is a \$4.5 million bill. Comes out of the General Fund. Comes out of the General Fund by way of the cigarette tax which is collected, is then spent for certain earmarked capital projects and what's left over out of those projects winds up going into the General Fund. No doubt about it and if I have...if in any way I have not owned up to the fact that this is a \$4.5 million bill that stretches 20 years out of there and ultimately comes out of the General Fund, let me make sure that that's in the record. The question is, is it one of our budgeting priorities? The Appropriations Committee and others have identified a certain amount in the growth of revenues that we have had as being sustainable growth. And the question is, should this bill take its place in that portion of our revenue increase which is proving to be...or which at this point is assumed to be sustainable? I say yes. Maybe Senator Wehrbein says no. The normal progression is to get these bills up to Final Reading, compare the cost of the bills to how much revenue we have of different kinds and to make an adjustment as to what is the most important things to do on the table. My suggestion is just as indigent care did not have a tax increase with it, that this would not necessarily have a tax increase in it. We get the spending bills up there, you see how much money there is to spend. You see how much you want to do and we make sure that the books balance. Seems reasonable to me. In that sense, I don't think there is a single bill that's been on General File for which we have attached a revenue source to match it. Now if we have had one, correct me, but I don't think we spent...had a single spending bill whether it's been in education or in property tax relief or in anything else that's had an accompanying revenue package for it and it alone. Why? Because we fund a General Fund. This is a General Fund expenditure. You bet. Guilty. Ultimately, it will come out of the General Fund. The question is, is it an appropriation that this body would make as a greater priority than other A bills that are up there, other budgetary priorities that are going to get there through the courtesy of the Appropriations Committee? And in that sense it is too early to consider the notion of a separate revenue source for this bill as absent the discussions on other bills. So, with that, I oppose the Wehrbein amendment.



SPEAKER BARRETT: Thank you. Senator Haberman is announcing some guests under the south balcony, Marcy Nesbitt and Vicki Robinson and children from Imperial. Would you folks please stand and be welcomed. Thank you. We're glad to have you. And also under the north balcony Senator Langford has some guests from Kearney, the City Manager of Kearney, Tom Palmer and his wife, Mr. and Mrs. Palmer. Please stand and be recognized. We're glad to have you also. Senator Hall, would you care to discuss the Wehrbein amendment, followed by Senators Warner and Labeledz.

SENATOR HALL: Thank you, Mr. President, and members, I rise in support of Senator Wehrbein's amendment to the bill, which is difficult for me to do because I'm not fond of what we oftentimes call the sin taxes. The proposal here though is one that I think deserves a lot of discussion and the reason for that is that Senator Landis is right that I don't think there has been any other bill that on General File has had a funding source put in. But I don't also know of any other bill that has been brought out of committee this year that had a \$4.5 million price tag on it prior to the budget being discussed. And this is an issue when we are talking about basically taking those funds out of the General Fund, as LB 683 would, it is something that the committee, excuse me, the body, a number of members of which have signed, I think over 30, if I counted correctly, have signed onto this bill, feel that it is that important, I think that it is also important enough to provide a funding source for it. I dislike the thought of raising cigarette taxes just because I think that's basically a haphazard way to look at the taxing structure, but we have become accustomed to doing so we do it rather easily. But I also think Senator Wehrbein's point is well-taken, that if this is something that is going to have a 20-year effect, if we are looking at funding this for 20 years out, then it is very appropriate to put the funding mechanism in today on this bill because the wait and see attitude is not a good one, in my opinion, with regard to something that we are going to lock in place an expenditure of this magnitude, of this proportion over a 20-year frame. And I think it only makes good and appropriate sense and it's being, I think, honest with ourselves and with the balance sheet, if you will, that we place this amendment on the bill. It's not an attempt on my part to oppose the bill because I don't think I will support it anyway. But I think if you're going to pass it, you ought to be honest in saying that we're going to supply the funding source for not

only this year but for the balance of that contract that LB 683 becomes and the other 19 years that it plays out. I think that a wait and see attitude is not appropriate in this case. There may be other times when I will say it is but in this case the cigarette tax, the increase that Senator Wehrbein puts into LB 683 through this amendment is very appropriate and I would urge the body to adopt this amendment to the bill. Thank you.

SPEAKER BARRETT: Senator Warner.

SENATOR WARNER: Mr. President and members of the Legislature, I would rise in support of Senator Wehrbein's motion. Obviously, I suspect it would be understood that I conceptually am opposed to the bill for the basic reason of giving away another portion of a state base tax over which once done, particularly under an authority for bonding, is forever gone and in this case it's not three cents that you're giving away...or two and a half cents, rather, of collections but in terms of \$4.5 million. My concern lies...and I think it ought to be understood...be given thought if this is to be enacted, and that is that rather than pledge a dollar amount at some point that the legislation is considered to pledge only the receipts from a certain cents per...so many cents per package. And the reason I say that, I acquired a few days ago from one of the firms that were involved with some of the issuance of bonds that we have done already, using the cigarette tax pledge, what I was concerned about or interested in was knowing what kind of reduction in receipts were they anticipating. And using their track...their economic model, their tracking model, this is not the state's model, they were projecting through the 12 years which is what they happen to have that is consistent with some of the bonds, it would show a one-third reduction in the collection of sales tax if the cigarette tax stayed constant at 27 percent...27 cents. In '91 and '92 the projected income total is 35.3 million and by 2001 that is reduced to 23.6 million or almost \$12 million of reduction in that period of time or a third of the current revenue would be lost. And, obviously, if you're talking about a stable form of income in particular for pledging of bonds, this one isn't it, or the other side is it will constantly take a larger percent or a larger number of cents of the cigarette tax to provide that \$4.5 million that is proposed. Senator Landis mentioned about sustainable growth and sustainable revenue. Cigarette tax is not a sustainable tax, it is a declining tax that can only be offset with increasing rates and that might be a good thing to do just to cut down on consumption

but at some point you, obviously, are not going to continue to collect the revenue at the level that is proposed other than by increasing the tax rate on the cigarettes. So I think that the concept ought to be established now that as the revenue declines from the collection of cigarette tax per each one cent of tax that then you should understand that we're going to have to in...we ought to increase then that tax rate in order to cover it. Three cents is enough to cover it now and then as that rate declines we'll have to continue to increase the rate in order to maintain a stable source of revenue for this debt service. In the meantime, of course, the revenue to the state that goes to the General Fund will continue to decline. On these same sheets the General Fund contribution of the cigarette...

SPEAKER BARRETT: One minute.

SENATOR WARNER: ...tax for '91-'92 would be about 21 million projected on these sheets by the year 2001 and ought to...12 years it has dropped to 14 million. I don't believe that it is wise to pledge a source of revenue for debt service for local governments that is a declining source of revenue and it can only be adjusted by increasing rates but if that is the policy, then it ought to be understood and tied to the fact that you've got to increase the rate in order to maintain the yield and that can be accomplished initially by accepting Senator Wehrbein's motion to increase the cigarette tax by three cents.

SPEAKER BARRETT: Senator Labedz.

SENATOR LABEDZ: Question.

SPEAKER BARRETT: The question has been called. Do I see five hands? I do. Shall debate cease? Those in favor vote aye, opposed nay. Record.

ASSISTANT CLERK: 26 ayes, 0 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Wehrbein, to close.

SENATOR WEHRBEIN: Yes, Mr. Speaker and members, I guess, been discussing about whether it would be appropriate to withdraw this and just see what...how it develops. That might be relative to Senator Landis's discussion. I guess I'm inclined not to do that. I think as we go along we've got to realize

it's going to cost us to do some things that we're doing. We're going to start facing that drastically in the next 25 days. Perhaps this is the time to start. We have a rough draft for a budget almost completed and it's just what everyone is suspecting. It's going to be just as difficult to make the decisions this year as it has been the last two years. And I think we just as well start out with the fact that if we're going to increase spending however good, however noble the cause, it's going to cost some money and this may well be the first harbinger of what's going to happen as we try to find the money to fund some of these very good issues. So I am going...inclined to...I'll leave it, let's face it straight up. What we're doing is going to cost three cents and if it's not going to come out of the General Fund, then we're going to have to take it out by raising taxes. So I guess I would urge you to look at it that way, in addition to the points that Senator Warner made, that way this is very serious business as you extend bonding out for 20 years. We need sources of funding for these. They ought to be dependable. I guess part of it would go back to my original preposition that I don't think that we ought to be dividing or spreading the cigarette tax income that much further. So I would urge you to support the three cent increase at this time. If, admittedly, there is more time to consider this again, I will tell Senator Landis that I could probably love his bill a little bit more if this funding was in it but let us recognize it for what it is at the present time, it's a \$4.5 million drag on the General Fund. Money will have to come from somewhere and let's face it for what it is and replace that with an additional three cent tax on our cigarettes. Thank you.

SPEAKER BARRETT: Thank you. The question is the adoption of the Wehrbein amendment to LB 683. Those in favor of that motion vote aye, opposed nay. Voting on the Wehrbein amendment. Have you all voted? Have you all voted? Record.

CLERK: 14 ayes, 19 nays, Mr. President, on adoption of Senator Wehrbein's amendment.

SPEAKER BARRETT: The motion fails. Next order of business.

CLERK: Mr. President, Senator Warner would move to amend the bill. (The Warner amendment appears on page 1700 of the Legislative Journal.)

SPEAKER BARRETT: Senator Warner.

SENATOR WARNER: Mr. President and members of the Legislature, I would assume that this amendment is not controversial but I may be in error. All this amendment does is makes it very clear that if any bonds are issued in which this source of revenue is pledged, that the revenue will not be pledged beyond the year of 2009. It is my conception, at least, and others who have looked at it that the potential is there, that if it is enacted, a community could issue bonds the 19th year of the authorization for another 20 years and potentially, at least, you could have commitments on state funds for the next 39 years and I suspect that one community doing that would have the impact of probably requiring all of the funding to be continued. And what the cigarette consumption will be or even if it will exist 39 years from now I have no idea, but it seems to me that is far too long a period to contractually tie up state tax resources and this amendment just merely makes it clear that the bonds can be issued beyond the year 2009 but the guarantee of the 4.5 million of state funds would not extend beyond that period. Senator Landis...I would yield some time to Senator Landis, Mr. Speaker, if he would ask...

SPEAKER BARRETT: Three and a half minutes.

SENATOR WARNER: I would yield three minutes to...

SENATOR LANDIS: Thank you.

SENATOR WARNER: Because he can do what he has to say in less time than three minutes.

SENATOR LANDIS: I can. And, as a matter of fact, if you yielded to me in 30 seconds. I agree with Senator Warner. I agree in the concept that it's consistent with the idea of the bill. Unfortunately, since it's not published, I haven't read the language carefully but I would accept the amendment. Let's adopt it and make sure that that concept stays in the bill. And I just want to make sure that I had checked the language to make sure it does it in an appropriate fashion. But let's adopt the Warner amendment. I would accept it in concept to the bill.

SPEAKER BARRETT: Thank you. Senator Schellpeper, any comment? Senator Schmit, any comment?

SENATOR SCHMIT: Mr. President and members, a question of Senator Warner, please.

SPEAKER BARRETT: Senator Warner.

SENATOR SCHMIT: Senator Warner, using this system, is this anything we have ever done before?

SENATOR WARNER: Well, certainly we have...we have pledged...I do not recall a concept exactly like this where the state provided a source of revenue which a local government could pledge for debt service, with one exception and there is such authorization for the pledging of highway user revenue for local street improvements and that is a pledge in that case. But, other than that, I do not believe that we have done it before.

SENATOR SCHMIT: We have never ventured...

SENATOR WARNER: Except for state purposes we have some cigarette tax...(interruption)

SENATOR SCHMIT: Yes. We have never ventured into an area before where we are committing a certain supply of money to another entity of government and we are saying, in effect, we will promise that this will be forthcoming regardless of needs or regardless of expenditures or regardless of the economy or any other...any other nature. Is that right?

SENATOR WARNER: I do not recall any such incident and as I am thinking about highway funds I know local government has the authority to pledge them for debt service but I do not believe that also carries the pledge that the state would not reduce that revenue in the event of a change in formula or what have you. So it does not have the same...even with the fuel tax it does...conceptually it's the same but it's not the same guarantee that this is.

SENATOR SCHMIT: Suppose that the next Legislature comes in and makes some modifications in this bill, where does that leave us?

SENATOR WARNER: Obviously, any contracts that were...or bonds that were issued, you could not jeopardize those bonds. So to the extent that some community had issued bonds, you would...you could not change any provision of law relative to those. I assume you could make changes for the issuance of bonds

prospective and make some change but I doubt that you could change anything in the \$4.5 million once there was something issued, the way the mechanism works.

SENATOR SCHMIT: I see. Would Senator Schellpeper explain, what do the cities anticipate...now I visited with them briefly about this but not to any great extent when they came to me to put my name on the bill, but what do the cities anticipate their greatest need and the greatest utilization of this source of funding will be?

SPEAKER BARRETT: Is that addressed to Senator Schellpeper?

SENATOR SCHMIT: Senator Schellpeper, I believe.

SENATOR SCHELLPEPER: Excuse me, I didn't hear the question.

SENATOR SCHMIT: Have the cities outlined for you what they anticipate will be their greatest utilization of this source of funding?

SENATOR SCHELLPEPER: Well, I think in my district most of them plan to use it for water, sewer, for some buildings for their equipment. I know I have a couple towns that have some kind of lean-tos now that they are putting some equipment in and they would like to use that for a building like that, just to put a decent building up for their equipment.

SENATOR SCHMIT: Uh-huh.

SENATOR SCHELLPEPER: But mainly for water and sewage and things like that.

SENATOR SCHMIT: Uh-huh. Well, Mr. President and members, I'm going to listen to the debate on this bill and I know it goes back a number of years when we first entered into debate relative to how important it might be to local government to allow them to use local income...local sales tax. And I well recall one of the members saying, if they want to tax themselves, let them go ahead. And we have seen some erosion of the base there that has...

SPEAKER BARRETT: One minute.

SENATOR SCHMIT: ...caused us some concern. And so I'm just

going to watch this very closely, listen very carefully to the debate because I don't want to entrap ourselves further in the same kind of a situation. I understand the needs of the cities very much and understand their deep concerns and I share that concern, but we seem to be unable to give direct property tax relief of any consequence for any length of time. We seem to be unable to...I guess resist the impulse to burden the cities and counties with additional responsibilities and the schools and for that reason it may be justified that we do what we are doing here today. On the other hand, it might be a better alternative to take a look at whether or not we should mandate some of those responsibilities to local subdivisions that we have mandated and allow them to make their own decisions and raise their own funds and meet their own obligations. So, at this time, I'm going to withhold my decision on what I'm going to do about the bill. Thank you.

SPEAKER BARRETT: Senator Scofield.

SENATOR SCOFIELD: Thank you, Mr. Speaker, and members, Senator Schmit raises an issue with his question that he directed to Senator Schellpeper that I want to alert the membership to and that is one of the things that I have a concern about this bill on although I certainly support the notion of trying to get some help out to communities and particularly rural communities, is that I have thought, as I read the bill, that perhaps the definition of infrastructure was unnecessarily broad. And, in fact, the most appropriate kinds of things to finance through this would be those things such as solid waste management facilities, waste water, storm water, water treatment works, water distribution facilities, which are in the current language of the bill. But I did have some questions about how far we wanted to take that and the particular language that concerned me as far as airports, port facilities, buildings and capital equipment, convention, tourism facilities, and so on. And the reasons for my concern are to make this truly an infrastructure bill I'm going to offer an amendment. I will have it printed in the Journal. I'm going to offer this amendment on Select File. I have talked to both Senator Landis and Senator Schellpeper about it. But I want you to be aware that this is coming so you can think about it because my perception is is my communities can go out and raise money to do a tourist center. Chadron, as a matter of fact, has recently done that. That's not an impossible thing to finance. It's much less easy to run bake sales, lotteries, and so on, to do boring things like solid



waste and waste water treatment and so on. It's pretty hard to have a community activity to get people to kick in for that. And I think it would be good policy to make this truly an infrastructure bill and so I'm suggesting that this amendment is coming. It may address one of the issues that I think Senator Schmit was trying to raise in his question when he asked Senator Schellpeper what cities would use this the most for. And so I will file the amendment and bring that up again on Select. Thank you.

SPEAKER BARRETT: Senator Warner, would you care to discuss the amendment further?

SENATOR WARNER: Actually, not the amendment but the thought occurred to me that in answering Senator Schmit's questions I should have also pointed...I was speaking from what I think is a practical impact of a commitment. The bill, as necessary, does indicate that there is not a commitment on the state to do it, to meet...technically meet with constitutional requirements and it does require an appropriation each year which, obviously, some Legislature in the future could choose, I suppose, not to do that. It's the same provisions and same concept that is used when the state has utilized this mechanism for...for commitment to the issuance of bonds and, of course, they wouldn't have to issue bonds, they could just...the small towns, the two, three hundred dollars they get each year could be used for street improvements and expansion of their sewer systems and those other costly infrastructure items, but they wouldn't necessarily have to issue bonds. So I just want to make it clear that there is not an absolute binding constitutional impact for the Legislature to make the appropriation. As a practical matter, I would suspect, however, that we would do that because to do otherwise would impair the credit rating of those communities that there could...as well as the state, for failure not to provide funds which the bondholders would have every reason to believe was the intent of the Legislature even though the technically constitutional permission would not mandate us to do so.

SPEAKER BARRETT: Senator Schellpeper.

SENATOR SCHELLPEPER: Call the question.

SPEAKER BARRETT: The question has been called. Shall debate cease? Those in favor vote aye, opposed nay. Shall debate

cease? Record, please.

CLERK: 26 ayes, 0 nays, Mr. President, to cease debate.

SPEAKER BARRETT: Debate ceases. Senator Warner, for closing.

SENATOR WARNER: Okay, Mr. President, we strayed somewhat away from the amendment. Again, this merely makes it very clear that any bonds that might be issued pledging this source of revenue by a community that that pledge of the revenue would not extend beyond the year 2009, although the bonds, obviously, could but this pledge of revenue would not extend beyond that year.

SPEAKER BARRETT: Thank you. Those in favor of the adoption of the Warner amendment please vote aye, opposed nay. Record.

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of Senator Warner's amendment.

SPEAKER BARRETT: The amendment is adopted. Next order.

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

SPEAKER BARRETT: Senator Conway.

SENATOR CONWAY: Mr. Speaker and members, on the desk is an amendment that most of you have not seen yet. I have discussed it with several people. There seems to be a great deal of excitement about such an amendment I'm offering. But, given the lateness of the day and the extent to which certain members are...need to leave the floor, I will pull that amendment and probably offer it on Select File.

SPEAKER BARRETT: Thank you. It's withdrawn.

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

SPEAKER BARRETT: Discussion on the bill itself. I have one light. Senator Korshoj.

SENATOR KORSHOJ: I wanted to call the question.

SPEAKER BARRETT: You're out of order, sir. Any discussion on the advancement of the bill? Seeing none, Senator Landis, would you care to close?

SENATOR LANDIS: Thank you, Mr. Speaker, and members of the Legislature, we have made certain ideas pretty clear here. We're talking about 4.5 million bucks over 20 years. We can change our mind but, frankly, we are sending out a signal that we don't intend to change our minds. Money is supposed to go for infrastructure on a per capita basis distributed to the cities of the state. Senator Scofield signaled that there is going to be some amendments on Select File and I think if she puts that in the Journal, we'll have a chance to look at that and see what we can do on that score. Senator Kristensen indicates he has an amendment that he wants to put in the Journal and we can talk about on Select File. Basically, what's going to happen this year is the spending items are going to get up there, we're going to take a look at the budget, we're going to take a look at our revenues and see what the highest priorities of the state are. This, I think, is one of those priorities and deserves to be considered. I would suggest we move it along, crunch time is coming. It deserves it's place at the table to compare it with the other social, political and economic needs of this state. Thank you.

SPEAKER BARRETT: Thank you. Shall LB 683 be advanced to E & R Initial? Those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk.

CLERK: 27 ayes, 5 nays, Mr. President, on the motion to advance LB 683.

SPEAKER BARRETT: LB 683 is advanced. LB 683A.

CLERK: LB 683, Mr. President, introduced by Senator Landis. (Read title.)

SPEAKER BARRETT: Senator Landis. Senator Landis, on the A bill.

SENATOR LANDIS: I move for the advancement of LB 683A.

SPEAKER BARRETT: Is there discussion on the motion by Senator Landis to advance the A bill? Seeing none, those in favor of that motion vote aye, opposed nay. Shall LB 683A be advanced? Please record.

CLERK: 26 ayes, 3 nays, Mr. President, on the advancement of

April 13, 1989

LB 84, 84A, 247, 429, 611, 683A, 683  
739, 739A, 761, 809  
LR 76

683A.

SPEAKER BARRETT: The A bill is advanced. And Senator Carson Rogers is announcing some guests in the north balcony from Scotia. Representing District 28 in Greeley County, 11 K through sixth graders from Scotia with their teacher. Would you folks please stand. Thank you. We're pleased that you could visit with us today. For the record, Mr. Clerk.

CLERK: Mr. President, I have some...new resolution, LR 76, offered by Senators Wesely, Landis, Schimek, Crosby and Warner. (Read brief description of LR 76 as found on pages 1701-02 of the Legislative Journal.) That will be laid over.

Enrollment and Review reports LB 247 to Select File; LB 611 to Select File; LB 84, LB 84A, LB 739, LB 739A to Select File. Those are signed by Senator Lindsay as Chair. (See pages 1702-04 of the Legislative Journal.)

Mr. President, a series of amendments; Senator Wesely to LB 429; Senator Conway to LB 683; and Senator Kristensen, Mr. President, to LB 761. (See pages 1705-08 of the Legislative Journal.)

And the last item, Mr. President, your Committee on Revenue whose Chair is Senator Hall reports LB 809 to General File with amendments attached. And that's all that I have.

SPEAKER BARRETT: Thank you, sir. Senator Dennis Byars.

SENATOR BYARS: Mr. President and colleagues, as LB 809 was reported out of committee, I would ask that we adjourn until the 17th day of April, 1989, at 9:00 a.m.

SPEAKER BARRETT: Thank you, Senator Byars. You have heard the motion to adjourn until Monday morning at nine o'clock. Those in favor say aye. Opposed no. Ayes have it, carried, we are adjourned. (Gavel.)

Proofed by:

*Marilyn Jank*  
Marilyn Jank

April 17, 1989

LB 47, 66, 372, 395, 397, 401, 506  
683  
LR 2

want to create a situation where we have to come back in and discuss this a third and fourth and fifth time. I am exhausted with the issue. I am trying to do what I think is right, trying to work with the farm groups as best I can to give them what they think is best for agriculture, and if that is wrong, then I will be corrected by this body I am sure many times in the future. So I'd ask the bill be readvanced, Mr. President.

SPEAKER BARRETT: Thank you, sir. We have had a request for a machine vote. The question is the advancement of LR 2 to E & R Engrossing. Those in favor vote aye, opposed nay. Have you all voted? Record, please.

CLERK: 36 ayes, 2 nays, Mr. President, on the motion to readvance LR 2.

SPEAKER BARRETT: LR 2 is readvanced. For the record, Mr. Clerk.

CLERK: Mr. President, bills read on Final Reading this morning have been presented to the Governor. (Re: LB 395, LB 47, LB 66, LB 372, LB 401, LB 506.)

Senator Schmit has amendments to be printed to LB 683 and LB 397. (See pages 1720-21 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. Two reminders, the blood pressure checks and the cholesterol checks are still proceeding in Room 2102 and will be held up until one o'clock today. So those of you that would like to take advantage of it, please do so between now and one o'clock. Also be reminded that we will start with 761 at one-thirty following our recess. Senator Wehrbein, would you care to recess us, please?

SENATOR WEHRBEIN: Yes, Mr. Speaker, I'd move that we adjourn...or adjourn recess until one-thirty.

SPEAKER BARRETT: You have heard the motion to recess until one-thirty. Those in favor say aye. Opposed no. Carried. We are recessed. (Gavel.)

RECESS

April 20, 1989

LB 84, 429, 603, 683, 683A, 739, 767  
LR 83

of total revision. Don't try to make up for mistakes you made in LB 775 and LB 773 by trying to compensate for it by passing this type of bill. Two wrongs do not make a right. If you make a mistake one place, correct that mistake. Don't make another mistake trying to rectify a mistake that you made previously.

PRESIDENT: Thank you. The question is the adoption of the McFarland amendment. All those in favor vote aye, opposed nay. Record, Mr. Clerk, please.

CLERK: 8 ayes, 23 nays, Mr. President, on the adoption of the amendment.

PRESIDENT: The amendment fails. Anything else on it, Mr. Clerk?

CLERK: Yes, Mr. President. May I read some items first, however.

PRESIDENT: Yes, please do.

CLERK: I have amendments to be printed to LB 739 by Senators McFarland and Wesely. (See pages 1814-17 of the Legislative Journal.) Mr. President, amendments to LB 603 to be printed. (See pages 1817-18 of the Legislative Journal.)

New resolution, LR 83 offered by Senator Lynch and a number of the members. (Read brief description of LR 83. See pages 1818-19 of the Legislative Journal.)

Enrollment and Review reports LB 429, LB 683, LB 683A and LB 767 to Select File. (See pages 1819-21 of the Legislative Journal.)

Mr. President, the next amendment I have is by Senator Landis.

SENATOR LANDIS: I'm going to withdraw that amendment.

PRESIDENT: Do you wish to withdraw that? It is withdrawn.

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

PRESIDENT: Okay, on the advancement of the bill. Senator Warner, did you wish to speak?

SENATOR WARNER: Yeah, Mr. President, I rise at this point to

April 24, 1989

LB 325, 588, 683

and I think when we see this process work, well, these companies certainly will try to produce a degradable product sooner. And so I would urge you to support this amendment and then support the advancement of the bill.

SPEAKER BARRETT: Thank you. The question is the adoption of the Hefner amendment to LB 325. Those in favor vote aye, opposed nay. Record, Mr. Clerk.

CLERK: 27 ayes, 4 nays, Mr. President, on the adoption of Senator Hefner's amendment.

SPEAKER BARRETT: The Hefner amendment is adopted.

CLERK: Nothing further on the bill, Mr. President.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move that LB 325 as amended be advanced to E & R for Engrossing.

SPEAKER BARRETT: You have heard the motion to advance 325. Those in favor say aye. Opposed no. Ayes have it. Motion carried. The bill is advanced. Anything for the record, Mr. Clerk?

CLERK: Just one item, Mr. President, amendments to be printed to LB 588 by Senator Hall. (See page 1879 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you. The next bill, 603, and the A bill will be passed over until tomorrow morning, as is the case with the next bill, LB 429; 603, 603A, and 429 are to be passed over. Mr. Clerk, to LB 683.

CLERK: Mr. President, 683, the first item I have are Enrollment and Review amendments.

SPEAKER BARRETT: Senator Lindsay.

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

SPEAKER BARRETT: You have heard the motion to adopt the E & R amendments to 683. Those in favor say aye. Opposed no.

Carried. They are adopted.

CLERK: Mr. President, Senator Scofield would move to amend the bill. Senator, I have your AM1165 in front of me.

SPEAKER BARRETT: Senator Scofield, please. (Gavel.)

SENATOR SCOFIELD: Thank you, Mr. President. This puts a different way of distributing the money to municipalities on 683. You will recall that currently under the MIRE bill, as we have started calling it, the money goes to municipalities on the basis of population. The amendment that I offer is an amendment that is based to some extent on the recommendations of the Syracuse Tax Study made in terms of trying to come up with some kind of needs-based formula and allocate money out on that kind of formula. So that we take the...the language in the amendment says the smaller the per capita income of the municipality is compared to the per capita income in all municipalities, the more funds that municipality will receive compared to other municipalities. So in other words, the intent of this is simply to target those municipalities that are the poorest and, thus, it shifts the allocation to help those communities that are most in need. I think this is appropriate in that those communities that are most likely to have infrastructure problems are the least likely to be able to come up with some money to attend to them, and so this would, in fact, shift money out to the poorest communities consistent, again, with the philosophy put forth in the Syracuse Study. If you will take a look at the amendment as printed, and that is printed in the Journal, isn't it, Mr. Clerk?

CLERK: Senator, it is not.

SENATOR SCOFIELD: It is not printed.

CLERK: No.

SENATOR SCOFIELD: I guess we had better distribute that then. Let me just walk through, Section 5 is really the meat of the amendment. I apologize, I was under the impression we had had that printed and, apparently, it is not. Section 5 reads as follows: The municipal allocation amount shall be determined for a given municipality as follows: (a) Divide the municipality's per capita income by the total municipal per capita income to get the municipality's index;...this is going



to be difficult without having this in front of you but I will go slow...(b) Subtract the municipality's index from one and multiply the resulting amount by the municipality's population percentage; (c) Add the amount obtained pursuant to subdivision (b) of this subsection to the municipality's population percentage; and multiply...this is just going to be unbelievable. You are not going to be able to follow this. I think I had just better wait until you get it in front of you. Essentially, we are taking a per capita basis, and there is a factor in here that factors in the age of the population, as well, so that you also make allowances for populations that are not only poor but also have an aging population. The net effect of this will be to shift money to those communities that are, in fact, the smallest and the poorest in the state, and when you see the language, that is, essentially, what it does. I will wait until you get that in front of you rather than try to walk through something that is going to be meaningless to you until you have it in front of you. That is the amendment.

SPEAKER BARRETT: Thank you. Discussion on the Scofield amendment to 683? Senator Warner, would you care to discuss the Scofield amendment? Thank you. Senator Smith. Senator Smith, would you care to discuss the Scofield amendment? Senator Crosby.

SENATOR CROSBY: I am sorry, Mr. Speaker. I need to see what she is talking about. I wanted to ask her some questions, so I do feel we need to see it in writing.

SPEAKER BARRETT: Thank you. Senator Withem, anything on the Scofield amendment?

SENATOR WITHEM: Yes, Mr. Speaker, members of the body, this is a bill that I have been unavoidably absent other times that it has been debated, so I have not been able to speak. Senator Scofield, as I understand what your amendment does is very simply it shifts the distribution of the dollars from its current formula, which is, basically, a per capita formula, to some sort of weighted factor so the poor communities receive more of the dollars. On the surface, it doesn't sound that bad but I am not going to support it. Let me tell you why, and I would urge you not to support it either. Number one, and I preface this by saying I have been through a number of distribution fights over dollars that go into the state aid to education formula. This, frankly, is probably going to be

another one of those, and I would ask you, you know, even if you like the way it sounds, to wait and not vote for it today. Let Senator Scofield offer her amendment, after it has been printed in the Journal, bring the bill back from Final Reading, before you consider it because you are getting into this factor of what determines a city's ability to fund projects. Is it the wealth of the individuals in terms of income? Or is the amount of property valuation that they have to tax in their area? You have a very wealthy group of people living in a community, but if you don't happen to have a lot of property in that community to tax, you don't have the ability to finance these particular projects. It is the old wealth determined by income of its residents versus wealth as determined by the property valuation that is in a district. Having said that, and saying I am not going to vote for the Scofield amendment or I urge others not to vote for it also, I would support the idea of a genuine needs determination onto this bill. I wasn't going to bring it up here. I wasn't going to work at it. I was thinking maybe of after the MIREF bill gets put into statute coming in next year with maybe a cleaner version of a concept, that would be one where rather than each community in the state getting some dollars, that we set up some needs assessment types of things, setting up a pool and having communities compete for that pool so it will be genuinely distributed to projects that are real infrastructure projects as opposed to just a few dollars going into a small community that won't do a whole lot of good. I urge you to be very careful about voting yes on an amendment that you haven't really seen through no fault of Senator Scofield. She thought it had been published in the Journal and it had not been. I don't fault her for that but I urge you very strongly about voting in favor of an amendment that you haven't even seen that shifts dollars around because the surest way to develop a donnybrook in this Legislature is to start distributing dollars based on factors, you know, that are need oriented versus population oriented, that are property valuation definition of need versus income of citizens definition of need. This may, in fact, be a decent method of distributing the dollars but I am not going to support it until I get a much stronger sense of how the dollars are going to be distributed if the Scofield amendment is adopted. I would urge you not to support the Scofield amendment at this point.

SPEAKER BARRETT: Thank you. Senator Scofield, please.

SENATOR SCOFIELD: Mr. President, I think given the complexity

of this amendment and the fact that you haven't had a chance to look at it, I will withdraw it. We are going to go ahead and try to distribute it today so you can get a look at it, and see if we can move ahead on it perhaps later. Thank you.

SPEAKER BARRETT: Thank you. It is withdrawn. Mr. Clerk.

CLERK: Mr. President, the next amendment I have is by Senator Scofield. Senator, this is your AM1176. (See page 1880 of the Legislative Journal.)

SENATOR SCOFIELD: Thank you, Mr. President. This is the amendment that I mentioned on General File that I was going to bring forward on this particular bill, and I think if I understood Senator Withem correctly, he was raising a concern that this amendment addresses, and that is, what is infrastructure and how broadly do you want to define it? And this amendment simply narrows the definition of infrastructure, on page 9, line 8, after "mains"...no, it is just punctuation then, but the meat of it is really in line 9 through "excluding" and in line 15 insert "Infrastructure project shall not include." The effect of that is we exclude buildings and capital equipment used in the operation of municipal government; convention and tourism facilities; redevelopment projects defined in Section 18-2103; and mass transit and other transportation systems, including parking facilities and excluding public highways, bridges, and municipal roads, streets, and bridges. So the effect of this amendment is it leaves those things that are, in my opinion, truly infrastructure that are the least likely to be able to find another funding source. To use Senator Landis's definition that he has used frequently before, what is left in are those things that have no sex appeal, you can't have a community fund raising drive to get anybody to back them, so you end up leaving in solid waste management facilities; wastewater, storm water, water treatment works and systems, water distribution facilities, and water resources projects. Those are the kinds of things that I think are genuine infrastructure problems. They are going to become more serious as time goes on. They are expensive to address. The needs in this state are great. The certainty of even federal funding does not seem to be absolutely locked in based on information that I came across last week. So I think there will be more than enough demands to use up any of this kind of revenue without expanding it and giving it as broad a definition as currently is contained in this statute. And so

I would ask that you narrow the definition of infrastructure as per the amendment that I offer. Thank you.

SPEAKER BARRETT: Thank you. Discussion on the Scofield amendment? Senator Warner, would you care to discuss it? Thank you. Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, Senator Scofield brings us a tightening up of the bill and it is certainly up to this body to choose whether they wish to do so or not. Let me tell you that the bill came about by surveying cities for what their needs were. The list was constructed on the basis of that survey. You may wish to endorse that list. You may wish to narrow it. It is up to you. I put the list in here because it was based on a survey of a wide variety of cities with a wide variety of needs and, frankly, this list is inclusive. I certainly admit that. There were locations and facilities, cities, that were interested in pursuing these topics. That is why they appear in the bill, and if the body wishes to strike these provisions, they may. I, personally, will leave the definition section the way it is, oppose the amendment. Frankly, I think it is entirely possible there are some items in there, I know that I have had a really difficult time with transportation systems and trying to identify support for them, whether it was state funds, or local funds, or bus fares themselves, or the altering, declining, ever changing federal assistance in mass transportation. I, personally, am going to vote against the amendment. I urge you to do as well. On the other hand, I think Senator Scofield has presented us with an interesting choice here. Frankly, any list that you have is in some measure arbitrary. I would confess that. I think Senator Scofield's list has an arbitrary quality but I do think it is a tighter definition. I think this looser definition apparently fits in some of the needs that cities have and I intend to resist the amendment. I would certainly carry the bill, however, if it is successful in its outcome. Thank you.

SPEAKER BARRETT: Senator Schellpeper, on the Scofield amendment, followed by Senators Hall and Withem.

SENATOR SCHELLPEPER: Thank you, Mr. Speaker and members. I also rise to oppose this amendment. I think that we should have had this amendment before this afternoon if we are going to consider something this drastic. At the current time, there is

544 towns, I think, that are going to be using these funds and there is probably...there could be 544 different uses for this money. So I think by trying to restrict it, we are just making our cities that much harder to really...to use this here money. So I think at the present time it would be best to reject this amendment, and then we may be able to consider it later on, but at this time, I think we should just reject this amendment. Thank you.

SPEAKER BARRETT: Thank you. Senator Hall.

SENATOR HALL: Thank you, Mr. President and members. Would Senator Scofield yield to a question?

SPEAKER BARRETT: Senator Scofield, would you respond?

SENATOR SCOFIELD: Yes, Senator Hall.

SENATOR HALL: Senator Scofield, now it is my understanding, and I apologize because I didn't hear most of your opening on this but I did get a copy of the amendment from the Clerk, on page 9, it would exclude anything from line 8 through line 15 or up until line 15?

SENATOR SCOFIELD: Senator Hall, essentially, if you stop after resource recovery systems on line 9, and then exclude everything else, you have got it. That is what I am striking. We simply insert language on line 15 that says "Infrastructure projects shall not include" and that makes it flow grammatically but those projects on lines 15 and 16 aren't included anyway. So the new language, what I am proposing we strike, strikes airports; port facilities; buildings and capital equipment used in the operation of municipal government; convention and tourism facilities; and redevelopment projects, mass transit...

SENATOR HALL: Mass transportation systems,...

SENATOR SCOFIELD: ...transportation systems...

SENATOR HALL: ...parking facilities,...

SENATOR SCOFIELD: Right.

SENATOR HALL: ...public highways and bridges...

SENATOR SCOFIELD: Right, considerably narrows it to largely water and wastewater treatment initiatives, transmission lines and mains, hazardous waste disposal, resource recovery systems.

SENATOR HALL: Okay, thank you very much. So even though we are dealing with a MRF bill, municipal infrastructure system, something like that, we are talking about excluding bridges, municipal roads, streets, highways, parking facilities, anything other than...basically, we are narrowing it down to just specifically water and water treatment systems. I would join Senator Landis and Senator Schellpeper in opposing this amendment because I think it clearly is a very substantive amendment with regard to the issue of where the money that would be collected through this could be used. I will continue to oppose the bill, but if you are going to have the bill come out in a form that I think allows for that money to be used in an appropriate manner, as the cities feel that it is necessary, or the local entities of government feel is necessary for them to use it, it should at least include, I think, some of the things that Senator Scofield's amendment would exclude, bridges, roads, streets. I don't have any problem with listing those in there as an appropriate use for these funds, but the issue here is one of do we include them or do we exclude them and do we limit this money to primarily just water treatment and resource projects, and I would argue that that is not a good limitation at this point in time. There may be very many communities who support this bill, but at this point in time did not do that based on the fact that their resources would be limited to the specific items that the Scofield amendment would spell out and those that it would exclude. So I think if you were to adopt this amendment, you could very well see a number of those communities that had supported this measure very well fall off, and maybe that is a good reason to adopt it if you don't want to see the bill pass. I don't intend to continue to change my opposition to the bill at any point in time because I just don't think we should be shifting that resource of the cigarette tax over to this purpose. But if you are going to shift, you ought to shift and allow for the types of enterprises or operations that the bill would, in its original form, allow for. So I would urge the body to oppose Senator Scofield's amendment.

SPEAKER BARRETT: Senator Withem, followed by Senator Abboud.

SENATOR WITHEM: Yeah, I originally turned my light on to ask questions of Senator Scofield about specific types of projects

that I have heard communities have on their wish list, assuming that this bill were to pass, things that they would use it on. I think it is pretty clear by now that things like libraries, convention centers, auditoriums, buildings to house machinery, all of those kind of things would be excluded if this amendment were adopted. And for that reason, I am not going to support this. I think the...maybe the concept of infrastructure you could argue is not a good one to describe libraries, auditoriums, convention centers. You really are talking more about capital construction types of projects than you are infrastructure I would grant that. But I think it is not really incumbent upon the Legislature to tell these communities, particularly if you have a community that has excellent solid waste management facilities, wastewater, storm water, and water treatment works, et cetera, that they have to spend...that they are going to get this money and they have to spend it on those things, it seems to me to be a bit of a waste. Because Senator Scofield referenced my earlier comments when she began her instruction or her comments on this that she thought this went along with the direction that I talked about going, and this doesn't. What I had talked about originally when the people supporting the MIREF bill came to me, my thoughts were rather than five different communities that are of the size that they would get \$20,000 each, and you can't really do a whole lot in terms of infrastructure capital construction for \$20,000, that I would rather see the system set up where those five communities compete with one another and so we have some sort of prioritization mechanism where a community that has a single best \$100,000 project would get those monies in a given year, and maybe not be eligible then for two or three more years to compete again, so that we make sure that this goes into projects of the size that can be considered capital construction, if you don't like the word "infrastructure". I advanced that discussion to a few people. It did not get very far, so I chose not to pursue it much further. But to limit the types of projects, types of capital construction projects, infrastructure projects to those that certain members of the Legislature think are better than others I don't think is a good idea and I will not be supporting the Scofield amendment.

SPEAKER BARRETT: Senator Abboud.

SENATOR ABBODD: I will waive.

SPEAKER BARRETT: Senator Schimek, please.

SENATOR SCHIMEK: Mr. Speaker and members of the Legislature, I will be brief but I would like to comment. Senator Scofield, I empathize with what you are trying to do here and I think that the problems that you are trying to address are very serious problems, but I would have to echo what Senator Withem said a moment ago in that many cities, indeed, have excellent waste treatment facilities, and have taken care of some of these areas which you are outlining as being the areas that cities should concentrate on. And I guess the one thing that hasn't been mentioned here this afternoon is that it should be up to the individual cities to decide what their needs are. The idea of local control is often touted in this body, and in this case, I think it would be very appropriate because it would give the cities the ability to concentrate on what their problems really are. I think that an amendment of this nature is awfully late for the breadth of it and the importance of it to this bill. So I would encourage this body to defeat the Scofield amendment.

SPEAKER BARRETT: Thank you. Any other discussion on the Scofield amendment? Senator Scofield, excuse me, Senator Warner.

SENATOR WARNER: Mr. President and members of the Legislature, just as I have been listening to the discussion, it seems to me that what I am hearing is different than what I heard before the session, which was a mechanism to do some bonding and take care of what I thought was traditionally infrastructure. Now it seems that the interest is just to provide funds to take care of local things whatever the community may decide upon, and it would seem to me the more appropriate mechanism for that is simply increase the state aid that goes to municipalities which is on a per capita basis anyway, the same distribution, rather than earmarking a portion of the income from the cigarette tax. It could be accomplished just as easily with a simple increase in state aid to municipalities which they then, of course, would be free to use it for whatever purpose, as it seems to be a concern of many members. And for that reason, it would seem appropriate to restrict this bonding authority to a few areas, and if it is to be enacted at all, then go ahead and consider just state aid to allow cities to do a variety of things they need to do.

SPEAKER BARRETT: Thank you. Any other discussion? Senator Scofield, would you care to make a closing statement?



SENATOR SCOFIELD: Yes, I would, Mr. President. I have to assume that since nobody else spoke against this that those are the only people opposing this amendment. One point I want to make clear. Senator Hall indicated the issue of bridges and roads. Senator Hall, under the green copy of the bill, those are already excluded and so my language doesn't exclude those. Those are already out under the current language of the bill. So, in fact, the only things that are excluded are those other items, airports, port facilities, buildings and capital equipment used in the operation of municipal government, convention and tourism facilities, redevelopment projects, mass transit, so on. My rationale for bringing these, as you look at this amount of money and you think about how it might possibly be used, there simply isn't enough money in this bill to address the wide range of things contemplated. And while I am usually one to say send the money out there and let it be controlled by local entities, I don't think I am being inconsistent here in that I am saying there is a big need out there for the kinds of infrastructure items that my amendment would target this money toward and I think it is important that we focus these dollars where the need is greatest. Water treatment facilities, wastewater treatment facilities, in particular, some of our larger cities in this state have done a pretty good job of getting up to speed on that by virtue of essentially, if you will, free money. The federal grants were there and so on. That whole situation is changing and many small communities still have a lot of needs in those areas, unmet needs of millions of dollars that I am not even prepared today to estimate how much, and just at the time that their needs are about to be met, the changing circumstances of the federal government are such that I think it is very unlikely that we are going to get to all of those before some of these larger communities come back in and say, hey, our stuff is starting to wear out again, and so I think that there is probably not a community out there that you can't say doesn't have needs in the areas that I am proposing that we focus the money on. I would further add that local dollars are, as we all know, a lot more scarce than they were just a few years ago, and it is much, much easier in my area to raise money from other sources to do these other things that I am striking from the amendment, but nobody has a bake sale or a lottery or whatever locally to do a wastewater treatment system. It just doesn't have the appeal that it is necessary to do that, and I think you have a lot better chance of finding another source of money to do those

things. So I am very serious about this amendment because I think it focuses it in an area of greatest need, and certainly it does take away some of the local's freedom to make those decisions, but it does focus, and I think if you really want to do infrastructure and if you really want to call this bill an infrastructure bill, then that is what this amendment makes it. So I would ask you to adopt the amendment. Thank you.

SPEAKER BARRETT: Thank you. And the question is the adoption of the Scofield amendment to LB 683. All in favor vote aye, opposed nay. Have you all voted? A record vote has been requested. Record, Mr. Clerk.

CLERK: (Read record vote. See page 1880 of the Legislative Journal.) 14 ayes, 21 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: The amendment is not adopted.

CLERK: Mr. President, the next amendment I have to the bill is by Senator Conway.

SPEAKER BARRETT: Senator Conway, please.

SENATOR CONWAY: I would like to withdraw that amendment, please.

SPEAKER BARRETT: It is withdrawn.

CLERK: Mr. President, the next amendment I have is by Senator Schmit. Senator Schmit has indicated to me, Mr. President, that he wishes to withdraw.

SPEAKER BARRETT: So ordered.

CLERK: Mr. President, the next amendment I have, Senator Scofield, I am back to your AM1165, Senator. Copies have been distributed now I believe, Senator.

SPEAKER BARRETT: Senator Scofield.

SENATOR SCOFIELD: Thank you. Mr. President, I think because of the complexity of this and the outcome of the last vote, I don't think I will ask to take that amendment up today but I would ask that you print it in the Journal and people take a look at that.

Let me reiterate what that amendment does as you look at it. This amendment uses per capita money income for each city and it adjusts the amount received by each community either up or down, so you have some winners and some losers. But let me stress, every community continues to receive funds, but the formula is more a needs-driven formula the way it is currently crafted. Cities with higher than average per capita income would receive less. Cities with lower per capita income would receive a little bit more. There are 36 losers out of the 534 communities under the current formula. I will withdraw that amendment today. I would ask you to study it and take a look at it. I think it is a reasonable needs-driven kind of formula that could, in fact, make a good deal of difference among the poorest communities in this state. Thank you.

SPEAKER BARRETT: It is withdrawn.

CLERK: Senator Warner, would move to amend the bill. (See pages 1881-82 of the Legislative Journal.)

SPEAKER BARRETT: Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, this amendment does not change the purpose of the bill, and I am not for the bill, but it would change somewhat the way it would function. The bill as it now is written, in effect, gives the 4.5 million that is to be distributed under 683 in effect off of the top of the cigarette proceeds and it remains that way throughout the distribution process. This amendment merely changes the draft to be comparable to other bonding provisions that we already have to be in conformity with, LB 683's provisions, so that all bonding provisions are treated the same or equitably. The amendment, as is true now, places 25 cents of the cigarette tax, 27 minus 2 cents, that is 1 cent to NORDA, the other then to Cancer Research Fund. The way it would be worded, that all of these outstanding bonds would be less, what would be placed in the General Fund would be an amount less this year, \$13,582,766, which is the total of all the earmarked bonding provisions including the 4.5 of LB 683, and the distribution then would come from the General Fund in the form of an appropriation, just as is the case now. The purpose is not to treat this distribution differently than the other bonding provisions that we have that are used primarily in the area of capital construction. And it seems to me it makes more sense that an aid program at least does not take precedence over

state bonding functions that are using the same source. It doesn't put it in a more difficult position than what it would be without it, but does give all of these equal status, the state purposes an equal status, along with the provisions of LB 683, and I don't know if the introducers are bothered by this amendment. They should not be but maybe they haven't had a chance to review it

SPEAKER BARRETT: Discussion of the Warner amendment? Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, Senator Warner, I have got on my desk an explanation of the amendment. It says Warner amendment, AM. I don't have the language. Will the language be distributed to the body?

SENATOR WARNER: Senator Landis, the amendment just came to me and I just sent it up there, so I don't have any copies.

SENATOR LANDIS: All right. Senator Scofield I think was good enough to inform the body of her intentions, and since Final Reading is certainly available for amendment, at the end of my time perhaps you would consider withdrawing the amendment for today and allowing us to renew the discussion. I will tell you why. It is entirely possible it is satisfactory if I had a copy.

SENATOR WARNER: My guess is, Senator Landis, it probably is but really (interruption)...

SENATOR LANDIS: Let me, since it is my time, let me ask a question here and then I will turn it over to you.

SENATOR WARNER: (Interruption) yield your time.

SENATOR LANDIS: Senator Warner, let me ask you a specific question. I am looking at this, it says that you are going to make, basically, a \$13.5 million fund for bonds. If there was another bond next year along the lines of a state bond, what specific amount of money would be available for that new bond if not to share in the existing \$13.5 million pool you create with this amendment?

SENATOR WARNER: That pool will change based on the amount of debt service that each enabling legislation has.

SENATOR LANDIS: I certainly don't see it on the base (interruption)...

SENATOR WARNER: On a per year basis.

SENATOR LANDIS: That is not the way it is described in the third paragraph of this amendment's explanation. Let me read to the body what we are told about this amendment today. The amendment places 25 cents of the cigarette tax in the General Fund and then distributes the \$13.5 million in the current order. Okay, so, basically, you have got the cigarette tax going to the General Fund with the exception of \$13.5 million for bonds in their current order. Now you attach a bond to the existing order that is normally going to be paid for out of the cigarette tax, and Senator Warner spent the cigarette tax, \$13.5 million for preexisting bonds, and the rest of the money in the General Fund. Either there is going to have to be a new set of language for using that money out of the cigarette fund or, and this is the dangerous part, its obligation should be assumed to come out of the \$13.5 million that Senator Warner has segregated with what I understand to be this amendment. Now, my point is this. I can't tell from this explanation which of those is so, nor can I, without some time, go to a bond attorney and say, does this amendment in any way disturb the possibility of using MIRE for bonding. If I have a bond attorney who says, Dave, they put that language on, it makes perfect sense, puts everybody in the same priority and leaves undisturbed the prospect of bonding against this money, I say, hands down, absolutely, let's do it. You bet. Now that is what I did on General File with an amendment I agreed to in concept when we came to that. I need that time to analyze the language which none of us have to see if that is so. If it is, I will be happy to accept the language. I would suggest if we could perhaps withdrawing the amendment for today, publishing it in the Journal, and giving us the time to make that analysis, and I will yield the rest of my time to my potential opponent and it's for my potential colleague, Senator Warner.

SPEAKER BARRETT: One and a half minutes, Senator Warner.

SENATOR WARNER: I am sure the bond...if the bond attorney objects to this, they will object to all the other bonds that we currently are funding but I am very willing to...the way this system works, Senator Landis, I assume we can pass over it and

provide whatever time you want to review it. If it goes to Final Reading, the odds of getting back to it are somewhere between slim and maybe nonexistent. I have experienced that a couple of times in the past, but if we pass over it today, it will be up fairly soon again and then there is no problem about attaching it. It is a much more prudent way to manage the money, and I don't believe it jeopardizes anybody.

SPEAKER BARRETT: Senator Schellpeper.

SENATOR SCHELLPEPER: Thank you, Mr. Speaker, and members. I would like to ask Senator Warner a question, if he would. In your opinion then, Jerry, this would not interfere with any bonding that any cities would do, and say that they had a building that they sold bonds on?

SENATOR WARNER: I believe not. It is similar to the wording that we use on the issuance of state bonds.

SENATOR SCHELLPEPER: No matter if it was for a sewage plant or a building, it would make no difference then the way that you would under your opinion?

SENATOR WARNER: I believe not. I believe there is no problem.

SENATOR SCHELLPEPER: Okay, thank you.

SENATOR WARNER: I appreciate I am suspect because I don't like the bill, but this is not the basis for my offering this amendment.

SENATOR SCHELLPEPER: Well, I wouldn't want to do anything that would interfere with the bonding that the cities could use because there are several cities that plan to use bonding to put up some waste facilities and things like that. Earlier, Senator Warner made the comment earlier that we should just increase the state aid. The problem with that is that the state aid isn't there when you need it. It is there this year but it may not be there next year. Once the city puts up this facility and they are planning to use state aid and it isn't there next year, it will not work. Right now we use some cigarette tax for many good purposes, and I think that helping our cities out is another good purpose for the cigarette tax money, and I think that we should just be using this money for something like that. Our small towns, our rural communities, even our larger towns

need the money to improve their facilities, and this would be one way to do it that they could have 20 years to do it, and I think it is a very fair formula that we have also. So I would urge that we adopt the bill today. As far as the Warner amendment, I don't think it is any problem, but like Senator Landis said, I think we should take a look at it. Thank you.

SPEAKER BARRETT: Thank you. Senator Scofield, discussion on the Warner amendment. Senator Scofield. Any other discussion? Senator Warner, would you care to close.

SENATOR WARNER: Mr. President, could I ask unanimous consent to pass the bill over until the amendment has had a chance to be printed?

SPEAKER BARRETT: There is an objection to the request.

SENATOR WARNER: Then I will run it.

SPEAKER BARRETT: Thank you. This is your closing then. Excuse me, there was another light came on. Senator Schellpeper.

SENATOR SCHELLPEPER: Thank you, Mr. Speaker and members. I was just back talking to the League and they said that if this amendment passes that you cannot bond against it, so this amendment should not be adopted, because in their opinion, if this passes, you cannot bond. Thank you.

SPEAKER BARRETT: Senator Warner.

SENATOR WARNER: The League is not telling the body the truth. Take the vote.

SPEAKER BARRETT: That constitutes your closing. Thank you. The question is the adoption of the Warner amendment to LB 683. Those in favor vote aye, opposed nay. Voting on the Warner amendment, have you all voted? Have you all voted? Record.

CLERK: 12 ayes, 10 nays on the adoption of the amendment, Mr. President.

SPEAKER BARRETT: Motion fails.

CLERK: Mr. President, I now have a motion from Senator Warner to indefinitely postpone LB 683. Senator Landis would have the

option to lay the bill over, Mr. President.

SPEAKER BARRETT: Senator Warner.

SENATOR WARNER: Well, obviously, the purpose of the kill motion was to provide an opportunity to find out whether or not the League was informing the body correctly. I believe they were not and, you know, I am a little surprised that...I appreciate it came down just now which it did. I just got the amendment, but it concerns me I guess that somebody back of the window is shooting in the dark, too. The purpose of the motion was to lay it over one day.

SPEAKER BARRETT: Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, it is important as to whether or not the technical virtue, which I understand Senator Warner wants to achieve, in fact can be done without disturbing the intent of the bill and, frankly, certainly even if I had time to look at the language itself, I probably couldn't make that judgment on my own but I certainly couldn't do it without the language as well. Now, I thought I made a relatively fair, reasonable suggestion. Each of these stages is a test of will as to whether the body thinks a bill has merit, and that test of will has been scheduled for today. We have all had our time over the weekend to know that it was here, and I am prepared for that test of the body's will to occur today. I have no desire to mess up existing obligations or to in any way endanger any of the accounting practices that we now observe. And towards that end, I have made to Senator Warner a suggestion. Give me time to check the language and I will personally ask to bring the bill back from Final Reading and attach it. If it is a technical amendment, everybody here has done the same thing, but insisting the body vote on a piece of language that we do not have before us, then striking out with an indefinitely postponement motion on the failure for that amendment, apparently, to be adopted, or in this case, that somebody else does make a mistake in characterization, if that is possible, frankly, you have to bear some responsibility here, Senator Warner. I agree the League may be in the dark. That is certainly true, but if they can't see the language, they have got a darn good chance of being wrong, too. Some of that burden falls at your feet as well. Now I would suggest that tempers cool here. I will renew my invitation, even though the motion was not withdrawn as I suggested, I will be happy to pursue an



independent search with bond counsel, Kutak, Rock on 683's amended language from Senator Warner. In the event it does nothing to affect the well-being of the concept of the bill to allow a stream of money against which municipalities can bond for infrastructure, if, in fact, it simply makes the same notion that the state obligations feel the same sense of priority, at least the preexisting ones, I will myself offer the motion and the language to bring it back from Final Reading. We are in a river that moves here, and if your craft is hung up at the dock while all the rest of the crafts go forward, we come down to those last days, and it is a difficult thing to get your bill floating. Now I'll tell you what I want to do. I'll be happy to live with this suggestion if, in fact, it doesn't undo my bill unknowingly or unwittingly on any of our parts, but I need a little time to do that. I don't want to sacrifice the chance to test the will of the body whether this is a spending priority measure. We have a refinement process here. It has three stages, not two. We are not passing this bill, but just like every other tough piece on this green sheet, we have gone through it today slogging through the best we can. Time to slog through this one. Let's take up the indefinitely postponement motion, if it is going to be here. Let's defeat that motion, let's send the bill on, and I, personally, will acknowledge that this amendment is available, it will be printed, and I will forthwith seek legal counsel in an analysis of it as to see its affect on 683.

SPEAKER BARRETT: Senator Crosby, discussion on the IPP motion, followed by Senator Wesely.

SENATOR CROSBY: Thank you, Mr. Speaker. I will vote against the IPP motion, of course, because I do believe in the bill, but what I wanted to say is this. I did not vote on Senator Warner's amendment for two reasons. First, I don't feel that I am expertise enough in the bonding field and I, of course, respect the Kutak, Rock firm. Bob Kutak, himself, who is now deceased, was known nationally, perhaps internationally, in that kind of law, but when Senator Jerome Warner whom I have watched all through his career and knew him and his family, and when he stands up here and says that we are not getting the straight word from the people who are behind this bill, then I listen because I do respect him and I don't think he goes off, and I just don't know when I have ever heard him say anything like that on the floor of the Legislature. Even though I haven't been here, I have been paying attention. So I will vote against

the kill motion but I did want Senator Warner to know why I didn't vote on the other one, and I hope, too, that if there is a problem, which obviously there is, that, Senator Warner, that you will talk with Landis and the other senators who are on the bill and try and work it out for Final Reading because I feel that we should do the right thing and the correct thing, the correct thing, in the bonding issue of this bill. It is a wonderful bill, I think, to bring...to help the municipalities all over the state, and so I don't want to see it falter because of a bonding mechanism or a defect in that part of the law, of the bill. Thank you.

SPEAKER BARRETT: Senator Wesely, Senator Scofield next.

SENATOR WESELY: Mr. Speaker, members, Senator Warner's comments I think point out exactly where we are at in the session. It is crunch time, ladies and gentlemen. We are down to the last few weeks. We have got too many bills, too many amendments, too much to do, and not enough time to get the job done, and the frustrations of Senator Warner and Senator Landis are felt by all of us. They all may be a little bit under the surface right now but they are all going to come out in time as we try and struggle through these very difficult issues, and this issue, frankly, among all of them, is not as difficult as what we are about to face. What we have got to recognize, and I think we need to think through this as we go forward, is how vitally important it is to give ourselves time to talk to one another, to share our feelings and thoughts about these bills and the amendments. There is amendments to LB 330 that we came up with and they were perfectly good in some instances and we just didn't know enough and couldn't share enough with one another to deal with them, and then in some cases over the noon hour, we sat down and had a chance to talk to one another and things got worked out. LB 182, a bill that we fought over on General File, Senator Coordsen, Senator Smith, and I, and others sat down, we have worked it out. We are not all happy and tremendously excited about it but the time we spent together, we spent about two hours, I think, together, we have worked something out to where we could at least go forward with the legislation and hopefully work it out. And we just have got to recognize we don't give ourselves enough time here off the floor to deal with one another, to talk to one another, and to work with one another on these issues, and when a late amendment comes up like this, I don't think we should come down on Senator Warner and recognize the fact that he has got a million other things he is

working on, about a billion other things he is working on, if that is the figure that is closer to our budget, and he has got all the things on his mind, and I have had this same problem come up. And I think Senator Landis is right to be frustrated, however, as well that he wants his bill moved across. Senator Baack and I just had lunch today trying to work out some amendments on LB 429. Thank goodness, he allowed us a little more time. We haven't worked that out. I don't know if we will work it out, but we just...it is just a frustration that Senator Warner shared that I have as well, that we are just not talking to one another and working together like we need to. We go from morning through till we get done here close to five o'clock. We all have work back in the office. We are never out of here before six or seven. We have something at night. We don't get together. We go five days a week. We come home on the weekend, we have got people waiting to talk to us. We have families and households we are trying to deal with, and all of this at a very difficult time. I think we need to step back and recognize we are not giving ourselves enough time and I hope that as we go through this we can recognize the process is having a problem right now, and it is one that is just inherent to the legislative process, but it seems worse. We have more bills and more issues and more problems and, then, less time. And so I think on the IPP, I don't know if that is really the issue here, the issue is do we go forward on this bill or do we hold back and try and work on this bill. My vote is to hold back on the bill and work on it before we advance it. Whether that works out or not, I just want to share Senator Warner's frustration.

SPEAKER BARRETT: Senator Scofield, followed by Senator Hall.

SENATOR SCOFIELD: Thank you, Mr. President. I am not going to vote to IPP this bill. I don't want to, obviously, kill a bill that I am a co-sponsor of, but on the other hand, I have concerns that we may be moving this bill too quickly and some of them stem back to amendments that I brought to you today that I'd still like to have a chance to look at, and particularly some of the bonding provisions that Senator Warner is raising I think need to be looked at. I had asked Senator Landis if he might consider passing over the bill for a day. I understand his desire to move the bill, but I think this is an important enough issue that perhaps we should not just forge ahead no matter how great the pressures of time are. So I am not going to vote to kill the bill today and would not in the future, I guess unless something really drastic happened, but I don't know

that I want to advance the bill today either until we have had a chance to work through some of these things. And I think maybe it is about time we do start slowing down and looking at some of these really big issues instead of just slamming them through. So I would urge you not to kill the bill but perhaps we should not advance the bill today either.

SPEAKER BARRETT: Senator Hall.

SENATOR HALL: Pass.

SPEAKER BARRETT: Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, it is not unreasonable to check the amendment and, obviously as I indicated, the only reason I put up the kill motion was to provide the time, as we all understand that if you do not try and amend the bill at this stage of the session on Select File, you may get back to it but the odds are also possibly you won't. But in view of the conversation, the amendment is in good faith because I do think it is better policy but I will just withdraw the kill motion and let it go.

SPEAKER BARRETT: Thank you. It is withdrawn.

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

SPEAKER BARRETT: Senator Lindsay, would you care to address the advancement of the bill.

SENATOR LINDSAY: Mr. President, I move that LB 683 be advanced to E & R for Engrossing.

SPEAKER BARRETT: Thank you. Discussion, Senator Landis, followed by Senator Moore.

SENATOR LANDIS: Thank you, Mr. Speaker, members of the Legislature. I simply want to reiterate my personal pledge, first, to the body and, secondly, to Senator Warner, I will forthwith take the language that he has offered, which I now believe is available through the Clerk, to have it analyzed. It is my hope to move the bill today. I will tell you why. Bills on Select File sometimes get in sort of an eyeball to eyeball look at each other and sometimes get a little linkage done to them. I don't happen to like that style. I don't like it

personally. I'd just as soon have the bill on Final Reading. There are bills on Final Reading that need technical adjustment or they need a conceptual readjustment, such as Senator Scofield suggests with her language. I would profit by some time to analyze that as well. If they are successful, they take exactly the same amount of effort, 25 votes, to be accepted. In the event Senator Warner's amendment merely places state bonds and the MIRE bonds, the MIRE authority, on relatively equal and acceptable footing for the assumption of bonding obligations, I think we are going to have an easy time of it come Final Reading to adopt that language and I will be happy to share in that. On the question of the Scofield amendment, the time will be there for us to review her language. She has given us good notice now, and it will be available to do that as well on Final Reading, certainly at the same time the Warner amendment comes up for discussion. I do think that bills ought to come up, slog through them and move along because there is a refinement process here. I would just as soon not try to get to some state in which a bunch of bills on Select File are linked together, and I would just as soon break those free and let them rise or fall on their own merits. Thank you.

SPEAKER BARRETT: Senator Moore.

SENATOR MOORE: I move to adjourn.

SPEAKER BARRETT: A machine vote has been requested. Mr. Clerk, anything for the record?

CLERK: Mr. President, one item, amendments to be printed to LB 603, and that is all that I have. (See page 1882 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. The question is adjournment for the day. Those in favor vote aye, opposed nay. Have you all voted? Record.

CLERK: 10 ayes, 15 nays, Mr. President, on the motion to adjourn.

SPEAKER BARRETT: Back to the discussion of the advancement of LB 683, Senator Scofield, followed by Senator Landis. Senator Scofield.

SENATOR SCOFIELD: Mr. President and members, I simply rise to

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explain my vote. I am not going to vote to advance the bill right now because I feel very strongly that we should consider this needs-base formula that I offer, and I respect Senator Landis's concerns about bills getting lost out there and linked, but I guess at this stage of the game, any bill that has got any kind of fiscal impact at all can't help that unfortunate linkage anyway, Senator Landis, and I would like very much to have an opportunity to take a look at a needs-base formula prior to trying to have to move the thing back off of Final Reading, which I think you would have to admit is a very difficult thing to do under normal circumstances. So I will not vote to advance the bill today.

SPEAKER BARRETT: Any other discussion? Senator Landis, there are no other lights on. You are closing.

SENATOR LANDIS: I will just move to advance the bill, Mr. Speaker.

SPEAKER BARRETT: Thank you, sir. Machine vote has been requested on the advancement of LB 683 to E & R Engrossing. Those in favor vote aye, opposed nay. Have you all voted? Have you all voted, if you'd care to vote? Record, Mr. Clerk.

CLERK: 26 ayes, 7 nays, Mr. President, on the motion to advance LB 683.

SPEAKER BARRETT: LB 683 is advanced. The A bill, Mr. Clerk.

CLERK: Mr. President, LB 683A, I have no amendments to the bill, Senator.

SPEAKER BARRETT: Senator Lindsay.

SENATOR LINDSAY: Mr. President, I move LB 683A be advanced to E & R.

SPEAKER BARRETT: The question is the advancement of LB 683A. All in favor say aye. Opposed no. Ayes have it, carried, the bill is advanced. This might be an appropriate time, ladies and gentlemen, to call your attention to some of the points which have just been made on this floor. You will notice the agenda today is two and a half pages. It was deliberate. I've had only one person question me about it. This is to give the body an idea of what is left to be handled with now 18 days left

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812

but if 18 and 6 makes 24, it probably won't work with a call of the house. So I will just sit down and unfortunately accept defeat.

SPEAKER BARRETT: Record, Mr. Clerk. A record vote has been requested.

CLERK: (Read record vote. See pages 1885-86 of the Legislative Journal.) 18 ayes, 21 nays, Mr. President, on adoption of the amendment.

SPEAKER BARRETT: Motion fails. Messages on the President's desk.

CLERK: Mr. President, your Committee on Enrollment and Review respectfully reports they have carefully examined and engrossed LB 569 and find the same correctly engrossed, LB 569A, LB 606, and LB 681, all correctly engrossed and all signed by Senator Lindsay as Enrollment and Review Chair. (See pages 1886-88 of the Legislative Journal.)

Mr. President, I have received a communication from the University of Nebraska regarding a proposed bond issue. That will be referred to Reference Committee for referral to the appropriate Standing Committee.

Amendments to be printed by Senator Lindsay to LB 429; Senator Withem to LB 812; Senators Withem and Hall to LB 812, and Senator Warner to LB 683. (See pages 1890-92 of the Legislative Journal.) That is all that I have, Mr. President.

SPEAKER BARRETT: Thank you, sir. Senator Labedz, for what purpose do you rise?

SENATOR LABEDZ: Thank you, Mr. President. I move that we adjourn until April 25th, nine o'clock in the morning.

SPEAKER BARRETT: Thank you. You have heard the motion to adjourn until tomorrow morning at nine o'clock. Those in favor say aye. Opposed no. Carried. We are adjourned. (Gavel.) Thank you.

Proofed by:

LaVera Benischek  
LaVera Benischek

April 26, 1989

LB 586A, 591A, 683

PRESIDENT NICHOL PRESIDING

PRESIDENT: (Microphone not activated immediately.) ...the George W. Norris Legislative Chamber. With us this morning as our Chaplain of the day is Pastor Curtis Benson of the Redeemer Lutheran Church in Hooper, Nebraska. Would you please rise for the invocation.

REVEREND BENSON: (Prayer offered.)

PRESIDENT: Thank you, Pastor Benson. We appreciate your being here this morning. Roll call, please. The Clerk would like to have a word with you. Record, Mr. Clerk, please.

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

PRESIDENT: Do you have any corrections to the Journal?

CLERK: No corrections, Mr. President.

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

CLERK: Just one item. Senator Warner would like to print amendments to LB 683, Mr. President. That's all that I have. (See pages 1931-32 of the Legislative Journal.)

PRESIDENT: May I introduce some guests, please, in the north balcony. Senator Coordsen has some guests from Friend, Nebraska. We have 13 ninth graders from Friend Public School and their teacher. Would you students and teacher please stand up so we may recognize you. Thank you for visiting us today. Move on to Select File, Mr. Clerk.

CLERK: Mr. President, we have three bills scheduled for Select File discussion this morning to catch up with the main bill. The first is LB 586A. Senator, I have no amendments to the bill.

PRESIDENT: Speaker Barrett.

SPEAKER BARRETT: Mr. President and members, I would move that LB 586A be advanced.

PRESIDENT: You've heard the motion. All in favor say aye. Opposed nay. It is advanced. LB 591A.



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LB 429, 525, 683, 813, 816A

Senator, I have AM1547, but if I may, Senator, before you proceed.

SPEAKER BARRETT: For the record, Mr. Clerk.

CLERK: Mr. President, items for the record. New A bill, LB 816A. (Read by title for the first time.) It's offered by Senator Warner. Appropriations Committee reports LB 525 to General File with committee amendments attached. Amendments to be printed to LB 813 by Senators Baack and Rod Johnson. Attorney General's Opinion addressed to Senator Withem (re. LB 429), and one to Senator Beyer (re. LB 683.) (See pages 1951-57 of the Legislative Journal.)

Senator, I now have your amendment number 1547 pending. (Wesely amendment appears on page 1916 of the Legislative Journal.)

SPEAKER BARRETT: Senator Wesely. (Gavel.)

SENATOR WESELY: Thank you, Mr. Speaker, members. This amendment is the real key amendment, I think, to address my basic concerns about this bill. And I have many concerns about the bill and I feel very uncomfortable about it. But at least an attempt to compromise, this is what I consider the least best offer. And what it does is, one, it reduces the threshold for new services from 900,000 to 750,000. It reduces the new equipment threshold from 1 million to 900,000, and those two things I've worked with Senator Baack on and, hopefully, he will be in agreement with those. And I would ask for a division of the question that pulls out those two items, the two threshold amendments. Then the other part of the amendment that would be taken up after that deals with the question of a list. And the list that I have on this amendment is...deals with neonatal care, open heart surgery, but it delays that open heart surgery so that Bergen Mercy can proceed with their desire to provide that service, chronic renal dialysis and then transplants. And I'll get into that after we're through with the thresholds. But anyway, Mr. Speaker, to save time and focus the debate, I ask that we divide the question and...let me see...

CLERK: Senator, may I inquire as to where that division would occur, just so...

SENATOR WESELY: You would, you would do numbers two and four, that are listed on 1547, you'd do those two, and then you'd take

PRESIDENT NICHOL PRESIDING

PRESIDENT: Welcome to the George W. Norris Legislative Chamber. We have with us this morning as our chaplain of the day Pastor Rusty Miller of the Capitol City Christian Church in Lincoln, Nebraska. Would you please rise for the invocation.

PASTOR MILLER: (Prayer offered.)

PRESIDENT: Thank you, Pastor Miller, we appreciate that. Come back and see us again some time. Roll call, please. Record, Mr. Clerk, please.

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

PRESIDENT: Thank you. Do you have any corrections to the Journal?

CLERK: No corrections, Mr. President.

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

CLERK: Mr. President, Committee on Enrollment and Review respectfully reports they have carefully examined and reviewed LB 301 and recommend that same be placed on Select File, and LB 302 on Select File. Those signed by Senator Lindsay as Chair.

Mr. President, Senator Scofield would like to print amendments to LB 683. And that is all that I have, Mr. President. (See pages 1964-66 of the Legislative Journal.)

PRESIDENT: Move on to the confirmation report, number five.

CLERK: Mr. President, Natural Resources Committee offers a confirmation report on the appointment of Mr. Floyd Vrtiska, it's on page 1934 of the Journal.

PRESIDENT: Senator Lamb, please.

SENATOR LAMB: Mr. President, members, the Natural Resources Committee had the hearing in regard to the appointment of Mr. Floyd Vrtiska to the Environmental Control Council. He is well qualified. The committee unanimously approved the resolution to recommend adoption of this report, which

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LB 325, 586A, 588, 611A, 683, 683A, 811  
812

LB 325, LB 586A, LB 611A, LB 683, LB 683A, LB 811, LB 812 all reported correctly engrossed. That's all that I have, Mr. President. (See pages 1978-79 of the Legislative Journal.)

SPEAKER BARRETT: Thank you. Pleased to announce that Senator Dennis Byars has some guests in the north balcony from Diller High School. Would you people please stand and be recognized? Thank you for being with us this afternoon. Also some special guests under the north balcony, from the North Platte area, and guests of Senator Bernard-Stevens, we have some champions and runners up from an auto mechanics class and their teachers, from North Platte High School. They've just won the Plymouth AAA Troubleshooting Contest. Would you four students and your two teachers please stand and be recognized. Thank you, we're very pleased to have you with us and congratulations to all of you. Let the record also indicate that Senator Moore had 27 third and fourth graders from Staplehurst and Ulysses in the north balcony. They have just left the Chamber. Mr. Clerk, to the first bill on General File. LB 588.

CLERK: Mr. President, 588 was a bill introduced by Senator Chambers. (Title read.) The bill was introduced on January 18, referred to the Government Committee. The bill was discussed, Mr. President, on March 29. It was discussed again on April 10. At that time the committee amendments were defeated. There was then a motion offered by Senator Conway to indefinitely postpone the bill. Senator Chambers agreed to lay the bill over, Mr. President. That motion is currently pending.

SPEAKER BARRETT: Senator Conway.

SENATOR CONWAY: Is Senator Chambers in the building?

SPEAKER BARRETT: I'm sorry.

SENATOR CONWAY: Is Senator Chambers in the building?

SPEAKER BARRETT: We are not certain.

SENATOR CONWAY: Does he have someone designated to represent him on this bill, or will we just pass it over?

SPEAKER BARRETT: The Chair recognizes Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature,

period of time to acquire the specific equipment for which money is appropriated. And the reason for doing that is that historically there will be, particularly in larger agencies, there will be an annual, sort of an annual amount of money available for equipment replacement that is usually related to sort of an amortizing over a period of time, a replacement or inventory replacement, obsolescence replacement that will run fairly consistent year in and year out, but if you have unusual expenses, one-time expenses, usually those are placed in the capital construction budget in order that they can be singled out as a one-time expenditure and will not ever become a part of the operations budget. Those are the kinds of reasons that generally was considered in the proposals that are in LB 814. Others will probably be talking on some of the specifics and we can do that a little later, too, as time permits.

PRESIDENT: Thank you. Senator Moore, please.

SENATOR MOORE: Yes, Mr. President and members, I guess I rise with a little bit of difficulty because I am going to be the odd-ball here because I am going to vote for this, and just for my own sake, I want to explain my reasons why. And as I do it, in many ways I guess maybe I am the Judas of the nine, or something like that, because I am going to be the one that is going to go against the other eight and I apologize for that, but, yet, I am being consistent because I voted no on this proposal as it came out of committee. My reasoning was very simple, as I said then, there has been a variety of stances I have taken...I have personally taken on this floor throughout this session, you know, fighting an unpopular battle and cutting down the price tag of LB 89; fighting an unpopular battle sometimes and trying to stop LB 187, indigent care bill; fighting LB 683, the MIRE bill; and fighting the protocol bill, little bills like that that I continually said on that there is things that I have a higher priority than those type of things, and just as last week, some items that I, personally, just, and I am speaking only for myself now, I, personally, tried to oppose getting in the mainline budget bill because I wanted to save room for other things. Well, the problem I have with this capital construction bill is, without pointing fingers and naming any names, there is no reason to, is there is certain items in this bill that are not that high a priority for me. And the one thing I learned early on in my tenure in the Legislature, there is...very few times is there a perfect a bill, and I probably ain't going to learn any quicker on

basically, the money goes to the same place, it goes back to the municipalities. The amendment to strike this amount of money is supported by the City of Lincoln, the City of Omaha and the League of Municipalities, basically, because if they have to take a preference, their preference is for the MIRE option, not this option. The critical difference for you is to recognize that MIRE is a continuing moral obligation, responsibility over time and, because it is a continuing moral responsibility although not a legal responsibility, it is of sufficient assurance that cities may rely upon it for the issuance of revenue bonds for municipal infrastructure. The critical difference then between this language in 525 and MIRE is that MIRE offers the assurance of cities sufficient to allow them to bond against the income stream. That bonding is what allows them to do real infrastructure work which is a crying need in our cities. It's time to make judgments and choices. It's time to choose between those options. I, for one, side with the notion of a continuing responsibility to help cities improve their infrastructure. I support MIRE and since this does much of the same thing but because of its structure robs the cities of their power to bond, I find it inferior when compared to LB 683. I urge the body to exercise choice and to take this option off the table and then consider up or down the notion of the support of 683. Thank you.

PRESIDENT: Thank you. Senator Warner, please, followed by Senator Schellpeper and Senator Scofield.

SENATOR WARNER: Just briefly, Mr. President. I appreciate Senator Landis's concept of wanting to leave LB 683 as the only game in town, the only bill that would have anything that goes to the cities. And so if you were inclined to want to provide some assistance to cities, that's your choice and only choice. LB 525, in this section, provides you another choice which has a lot of things that are more attractive, it would seem to me. One is...the obvious is that you do not tie up for 20 years a portion of state revenue, which you could not change. I don't know what will happen over the next 20 years but I suspect there will be a special session or two along the line making cuts. This will be cut proof once somebody issues bonds. But we talk a lot about it being for infrastructure and yet we had to bend LB 311 just the other day with Senator Landis's consent because small towns could not do anything in their infrastructure or their sewers, actual needs, and the funds that 311 provides or the program that it provides they were so small that they

to cities. It comes from the Syracuse study in a modified form and the Syracuse study said only give money to cities that need it. Mine is a modification in that I recommend that we continue to give money to all cities but we look at the income level of city residents, at least, when you allocate these funds. It seems to me that's good policy. In fact, if you want to help small towns, that's really the only sensible way to look at this, otherwise, outside of the advantage of doing some long term bonding which my towns have expressed an interest in doing, and I don't know how good that option is for them yet, frankly, but I really would like you to take a look at this option. There are really three options here. There is MIREF, unamended; there is MIREF with my amendment; there is this option. I would ask you to take a look, if you haven't had time to take a look at my proposal that was delivered to your office yesterday, and wait on this, see what happens on MIREF. I don't have any crystal ball at all as far as...any more than any of the rest of you do as far as what's going to be approved down the hall and where we're going to end up on this and I guess I would, at this point, like to keep my options open. I would like to have an opportunity to talk about this other policy choice and so I would ask you to reject this amendment. Thank you.

PRESIDENT: Thank you. Senator Moore, please.

SENATOR MOORE: Okay, Mr. President and members, I rise to oppose Senator Landis's amendment and I really cannot add anything to what the other opponents have already said but simply for myself that I voted against LB 683. I think we would be wiser developing some sort of need based assistance that would truly help smaller communities to...with a dollar amount that would actually help them. Obviously, as the MIREF bill is now written, large chunks of money goes to Lincoln and Omaha, two towns that already have exercised an option given to them with the local option sales tax to the tune of several million dollars. And the MIREF bill just simply adds...guarantees for the next 20 years (inaudible) additional millions of dollars from the state level from the cigarette tax, money that would be available for other things. And I am not willing to do that but I, myself, am willing to do what Senator Lan...I mean, I, myself, am willing to do what is in LB 525. I think that is prudent to increase the state aid to municipalities. I find it odd that the very people whose job it is to secure state aid for municipalities are supporting this amendment. I think that's unique and unusual. I understand why. I think it's a mistake

but I would oppose Senator Landis's amendment.

PRESIDENT: Thank you. Senator Langford, please.

SENATOR LANGFORD: Call the question.

PRESIDENT: Thank you, that was the last light but thank you anyway, Senator Langford. Senator Landis, would you like to close on your amendment?

SENATOR LANDIS: Mr. Speaker and members of the Legislature, Senator Scofield indicated that she would like to keep her options open and really would like to pursue an area of needs based support to cities. The amendment that I am striking, the portion of 525 is not at all needs based. And if she wants to carry water for that idea, there is one and only one instrument available to do that and that's LB 683. This...this language and this disbursement formula has no needs characteristic analysis...needs analysis in it at all. And if that's the notion, then let's focus our attention on 683. Secondly, if the idea is that we should keep our options open, isn't that exactly our problem at this moment, that we are balancing in the air all too many options? And the Appropriations Committee has risen one by one saying let's keep our options open. Actually, it seems to me it's time to close some of those options and take them off the table. I'm surprised to hear that the Appropriations Committee won't assist in that direction. Normally, we need to focus our budgeting drive to make sure that we can do what is within our means and, at this point, we have alive \$11 million in municipal aid. Now, my amendment suggests let's get down to the issue of \$4.5 million of municipal aid. Let's take 6.5 of it off the table. It's an option that we do not any longer need to entertain as we move into the waning days and, oddly enough, it's a choice between a bill that on this floor has had over 25 votes and an issue that's come out of the Appropriations Committee nine to zip. Unfortunately, this is a continuation of that floor agenda and the Appropriations Committee hostility to floor developed agendas. Frankly, we have to make some choices. I would suggest to the body this sum of \$6.5 million, thank you, but no, thank you. If there is going to be an agenda here, let it be the ones that the cities have chosen, ridden, selected and supported all the way down the line as opposed to prescribing for them what they should want in 525. I urge the body to foreclose some options, take some things off the table, reduce the amount of municipal aid that

supporting the bill, LB 525, conceptually, was an either/or, neither/nor, or perhaps I should say "ither"/or or "nither"/nor bill in which would provide the Legislature options and when you're looking for options they have to match. Nine million is a very good number. It matches LB 83, that is \$9 million. And if we can trade, that's in two years as opposed to one, so it's not quite a match but it's better than 18. Plus, this ends in two years, theoretically, and, of course, LB 683 goes on for a long time, 20 years, as I recall. So it would seem to me that it would be very appropriate to adopt this amendment to give the Legislature an either/or choice, to give the Governor an either/or choice. They are both aid programs. It's not difficult for me to opt to have that aid going for schools, if I have to choose between two, and so I think this is an excellent amendment and I would hope the body would support it.

SPEAKER BARRETT: Senator Moore.

SENATOR MOORE: Mr. Speaker and members, after following Senator Warner's speech, I'm listening to him and I understand his certain amount of chiding over the evaporation of these funds after a couple of years. I know that he has some concerns about the wisdom of LB 611 sunseting in '89 and who knows, given the tenacity of this Legislature to make some tough decisions, he's probably going to be right and it's just one more example of them. Now I don't enjoy, as nobody does, to oppose state aid to education and I'm really not. I remember back in January, back in February, I introduced an amendment to LB 89 for \$20 million in state aid, to make it that, and it was defeated soundly. As I said then, there were people doing cartwheels down the aisles if we'd introduce that \$20 million in state aid the year before. I think some people need to remember this great compromise costs \$18 million. Well, for those members of the body, I wasn't here as a member, but I was here as a staff person, go back four years ago to the Memorial Day massacre. How much money did we cut? About \$18 million. Remember how painful that was? Remember how painful that \$18 million was coming out? A lot easier to just lob it on, but sometimes you have to take it out, it's going to be a lot tougher. You know, it's like we're all a bunch of little kids or a bunch of high schoolers at the Junior-Senior prom and there is no way we can say no to anybody. Can't say no to anybody and it's not fun doing it and we've got ourselves in such a position that we've simply said no to no one. Like I said the other night, we're spending money like drunken sailors. We believe the Michelob Light ads, you can



LB 187, it has nothing to do with LB 84, or LB 44, excuse me. The problem lies in that the substantive legislation for which the funding is contained in the A bill is not a part of your amendment. And so you've got funding for a purpose in this A bill that that purpose isn't there. It's in a different bill, and so there are...in a very fine technical sense, there could be two subject matters in the bill. I raise the issue so if it gets vetoed, if the Attorney General would write a letter, you know, the body has been warned and those who drafted the amendment to this bill will know that they may have...you know, it may have been a really fine idea and I don't object to learning fine ideas, I...one of the advantages I have, I've seen so many fine ideas I didn't have to originate hardly any, I just copied a lot. But there still is that potential. And I've also made a decision, because I filed an amendment what's up there that I'm going to withdraw because I think it makes the problem more complex if I don't add an amendment, so...with that, I would urge that the bill be advanced.

SPEAKER BARRETT: Thank you. Any other discussion? Shall the bill be readvanced? Those in favor say aye. Opposed no. Ayes have it, motion carried, the bill is advanced. Senator Warner, did you say you wanted to withdraw the other amendment? Thank you. It is withdrawn. Nothing further on that bill, Mr. Clerk?

CLERK: Nothing further on that bill, Mr. President.

SPEAKER BARRETT: To LB 683.

CLERK: Mr. President, 683, the first motion I have, Senator Scofield, I had amendments from you, Senator, printed on page 1883. I have a note that you'd like to withdraw those.

SPEAKER BARRETT: Withdrawn.

CLERK: Mr. President, the next, I have a note...Senator Warner, the next amendment was from you, Senator, on page 1891. I have a note that you want to withdraw that one.

SPEAKER BARRETT: Withdrawn.

CLERK: Mr. President, Senator Warner would move to return the bill to Select File for a specific amendment. Senator, I have AM1550 in front of me. It is on page 1931 of the Journal.

SPEAKER BARRETT: Senator Warner.

SENATOR WARNER: What page?

CLERK: 1931.

SENATOR WARNER: Oh, that's the one I withdrew the other day. Yeah, that's...withdraw that one.

SPEAKER BARRETT: It is withdrawn.

CLERK: Mr. President, the next motion I have to the bill is by Senator Scofield. Senator Scofield would move to return. Her amendment is on page 1964.

SPEAKER BARRETT: Senator Scofield.

SENATOR SCOFIELD: Thank you, Mr. President, this is essentially the same amendment as the earlier one that I withdrew. It's just drafted now to correctly apply to the Final Reading copy of the bill. You will recall on Select File that I raised this issue, that this is a...even though it's a rather complicated formula if you try to figure it out and we did distribute to your staff in each of your offices a handout with the text of the amendment and the...or the text of the amendment is printed in the Journal. But we did distribute to you a bit of the Syracuse study where this concept is drawn from as well as an analysis of who the winners and losers would be, the net winners and losers anyway, on this amendment. Very simply put...

SPEAKER BARRETT: Senator Scofield, please. (Gavel.) The house is not in order, please.

SENATOR SCOFIELD: Thank you, Mr. President. Very simply put, what this amendment does is it changes the distribution formula of the cigarette tax money so that all communities still would receive money, but there is a shift in funds to communities based on an income formula. That's a much oversimplified version, but that's essentially what we're getting at here. Now if you live in Omaha and Lincoln, I'm going to tell you right up front you don't want to vote for this unless you just believe in good public policy and I think this is, because it is essentially saying we should focus state aid to those communities to do infrastructure on a needs basis rather than

shipping it out on a strictly per capita basis. That's all this amendment does. I think it is extremely important and good policy that we do some things for those communities who are least able to help themselves and this would help some of those...all of those communities, frankly, that are gainers to do more than they now can do and that's very simply the rationale of this particular amendment. As I said, you have the list. I have, for instance, in my district one community that will lose a few dollars, but others that are poorer that will pick up a few, and if any of you have done that same kind of comparison, some of you will have those kinds of trade-offs. But, for the most part, if you represent small rural communities and small towns, my amendment is good for you. With that explanation, I would ask you to return the bill. Thank you.

SPEAKER BARRETT: Thank you. Senator Landis, would you care to discuss the Scofield amendment, followed by Senators Schellpeper, Coordsen and Moore.

SENATOR LANDIS: I'll waive my time to Senator Schellpeper.

SPEAKER BARRETT: Senator Schellpeper.

SENATOR SCHELLEPER: Thank you, Mr. Speaker and members. Basically, the idea behind Senator Scofield's amendment sounds good. The bad thing about it is, it's probably not constitutional. Whenever you have to use an estimated income formula it will not work. Right now there is a court test back east on this same formula and I think rather than jeopardize the aid to our cities, we should pass the bill in its present form. I think if you're going to start moving some of these here funds around, for Lincoln it amounts to about 30, \$40,000. It isn't that much money that we're moving around but, if it's unconstitutional, it isn't going to do any town any good. So I think we need to reject the amendment, move the bill so that we can help our small towns and all towns in Nebraska. Thank you.

SPEAKER BARRETT: Senator Coordsen.

SENATOR COORDSEN: Thank you, Mr. President, members of the body, I've never known when we worried a great deal on this floor about constitutionality. I would say that, under the Scofield amendment, that my 16 communities I represent, the incorporated villages would gain \$9,000 a year. Thank you.

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LB 683

SPEAKER BARRETT: Thank you. Senator Moore.

SENATOR MOORE: Yes, Mr. Speaker and members, I rise to support Senator Scofield's amendment. Obviously, the major flaw in LB 683, in my opinion, is that you're distributing money and distributing cigarette tax money on a total nonneed basis so, obviously, you...the part that bothers me the most, the 32 communities in this state, they are already using the local city sales tax option, get money under this formula. Obviously, since they have already exercised their option and all communities that don't use that option, obviously, still have the option, I just wonder about just throwing money away like that. Obviously, the big tickets area, you're spending a big chunk of the change in Omaha and Lincoln, two communities that those of us that have been spending time here in Lincoln the last few months have been giving them property tax relief every time we purchase something. That, in itself, is a reason, a problem I have with LB 683. Obviously, Senator Scofield, what she is attempting to do is to bring at least some need base requirement into the bill and even though I think I'm a little fuzzy on how she attempts to do that, I think I laud her efforts and sincerely hope the body would, this time...I know this did not work on Select File, the body would take a long serious look at what Senator Scofield is proposing and amend it into LB 683 and, obviously, I appreciate Senator Schellpeper's great concern of the Constitution, but if you look at the last two days, you passed several bills that were constitutionally suspect, why not pass one more?

SPEAKER BARRETT: Thank you. Senator Warner. Thank you. Senator Langford.

SENATOR LANGFORD: Question.

SPEAKER BARRETT: The question has been called. Do I see five hands? I do. Shall debate now close? All in favor vote aye, opposed nay. Record.

CLERK: 28 ayes, 0 nays to cease debate, Mr. President.

SPEAKER BARRETT: Debate ceases. Senator Scofield, would you care to close?

SENATOR SCOFIELD: Yes, I would, Mr. President and members. Again, I simply want to point out that what I'm trying to do

here is to do a slight shift. Every community still gets money out of this, but it does institute a formula based on revenue raising capacity and a standard set of need factors basically that would allow us to target those communities who are least able to help themselves and it, frankly, in my opinion, doesn't significantly cause harm to the major cities. There is a shift there, as I pointed out. If you're from Lincoln and Omaha, this is probably not something that you're going to like if you want to look purely at under which formula do I get more dollars? But I think this is better public policy and, frankly, Syracuse study suggested that we should go straight needs base and we should only help those communities that are the poorest. I'm saying let's do a compromise, let's help everybody a little bit but shift that formula slightly to help those communities where the income levels of city residents are lower so that more funds would, in fact, go to poor communities. As far as Senator Schellpeper's concerns about constitutionality, neither he nor I, obviously, are constitutional lawyers so I don't think a debate between the two of us on constitutionality will be particularly enlightening for anybody but, nevertheless, I have, out of concern for this bill and concern for that, when Senator Schellpeper mentioned this concern to me I have consulted people who are attorneys, people who are familiar with the case that he cites and, frankly, it is their conclusion that if this particular formula is unconstitutional, we're doing a whole lot of unconstitutional aid distribution on this state and, in fact, even the actual bill of 683 could potentially be unconstitutional so I don't think that's a valid concern. The real question here, there's a policy choice that I give you here of do you want to slightly skew this particular worthwhile measure to inject a needs driven formula so you help the poor communities a bit more, because they're clearly the ones that are going to have the most trouble meeting infrastructure needs. Particularly in rural Nebraska where we have a rapidly aging population, it's a problem. In fact, I've been kind of surprised when I've looked down the list of some of the places that I thought were perhaps richer communities that wouldn't favor this, they have benefited. So I, obviously, don't know where the rich ones and poor ones are either. But I think it's good public policy that we move in a direction of a more needs based formula. So I would ask you to return the bill and then adopt the amendment. Thank you.

SPEAKER BARRETT: Thank you. The question is the return of LB 683 to Select File for purposes of amending. All in favor

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LB 289A, 289, 683

vote aye, opposed nay. Voting on the motion to return. Have you all voted? Senator Scofield.

SENATOR SCOFIELD: Let's, if we could, Mr. President, move along here very quickly and have everybody check in and have a roll call. Thank you.

SPEAKER BARRETT: Thank you. Record your presence, please. We are technically under call. Return to your seats and record your presence. Any members outside the Chamber, please return and check in. Senators Ashford, Pirsch. Senator Elmer, please. Senator Haberman. Senator Pirsch, please record your presence. Senator Scofield, only one missing, may we proceed? Members, return to your seats. (Gavel.) The question is the return of the bill to Select File. Mr. Clerk, proceed with a roll call.

CLERK: (Roll call vote read. See page 2601 of the Legislative Journal.) 22 ayes, 20 nays, Mr. President.

SPEAKER BARRETT: Motion fails. Moving to LB 705, Mr. Clerk. All right, that bill moves to Final Reading. We then proceed to LB 289A.

CLERK: Mr. President, Senator Schmit would move to return LB 289A to Select File for a specific amendment. The amendment is on page 2536.

SPEAKER BARRETT: (Gavel.) Senator Schmit.

SENATOR SCHMIT: Mr. President and members, this is a technical amendment that replaces General Fund appropriations with Cash Funds, which reflect the amendments which we made to LB 289 yesterday, makes some minor adjustments in the agency's administrative costs for the fire marshal and the DEC. It actually reduces some of their expenditures and some of their costs, and I move for the adoption of the amendment.

SPEAKER BARRETT: Any discussion? Seeing none, those in favor then of the return of the bill to Select File vote aye, opposed nay. Record, please.

CLERK: 29 ayes, no nays, Mr. President, on the motion to return the bill.

SPEAKER BARRETT: The bill is returned. Senator Schmit, please.

May 22, 1989

LB 640, 653, 653A, 683

CLERK: (Read record vote as it appears on pages 2649-50 of the Legislative Journal.) 40 ayes, 3 nays, 2 present and not voting, 4 excused and not voting, Mr. President.

PRESIDENT: LB 640 passes with the emergency clause attached. LB 653 with the emergency clause attached.

CLERK: (Read LB 653 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 653 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as it appears on pages 2650-51 of the Legislative Journal.) 43 ayes, 0 nays, 2 present and not voting, 4 excused and not voting, Mr. President.

PRESIDENT: LB 653 passes with the emergency clause attached. LB 653A.

CLERK: (Read LB 653A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 653A pass? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as it appears on pages 2652 of the Legislative Journal.) 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President.

PRESIDENT: LB 653A passes. LB 683 with the emergency clause attached.

CLERK: Mr. President, I have a motion on the desk. Senator Warner would move to return the bill for a specific amendment. That amendment being to strike the enacting clause.

PRESIDENT: Senator Warner please.

SENATOR WARNER: Mr. President and members of the Legislature, it is my intent to withdraw this amendment after I allow Senator Landis an opportunity to respond, if he chooses to do so. I don't intend to make an extended debate. I would argue, as I

have, on 683 that on the substantive bill there is a number of policies which one could question, one of which, all of which have been mentioned before, one of which is a definition of infrastructure which is far more than just what is at least traditionally thought of as infrastructure. Another of course is the issue if it is infrastructure as traditionally thought of it does not take into account any way need base and that issue, amendment was raised and nearly adopted. But, at least that point was made. A more likely definition of the bill was rather than refer to it as infrastructure is to simply refer to it as another general form of state aid with one significant difference and that is because it could be used for bond guarantee as revenue why it is locked up to the next twenty years. Another thing is of course there is no flexibility, the state does use some of the cigarette tax as a reference for issuance of bonds but they are under the state control and changes can be made, legislation has been introduced to do that from time to time. But in this case that opportunity would not be there and then certainly it does establish a new precedent where a state revenue is utilized to or authorized rather for a governmental subdivision to use for bonding. I suspect that once that concept is established why it can only add to it. But there are three, four other points I would like to make. One of these I have mentioned also. We are dealing with a declining base in the form of a cigarette tax and some of the figures, at least those who do the bond counselling on the bonds that the state has issued and which very carefully follow the projected receipts over a period of time, their figures would indicate that in the next 12 years there would be approximately a one-third reduction in those receipts based upon current revenue and current tax rates rather at 27 cents per pack and obviously if some of the ads that we all read and see on counselling and help, and if some of us would take it to heart a little better, obviously that revenue would decline even more rapidly. But the other three points I haven't mentioned, one with the passage of LB 84, we have already in that bill for next year provided an eight and a half percent decrease in generally for property tax in the cities plus whatever additional reduction there would be because of the homestead exemption which exactly how that would fall across the state, I do not know, but there would be something greater than eight and a half percent I would anticipate in the property tax liability at least in the next year. My main concern however falls at the fact that this 4.5 million per year, anyway you cut it, is going to be 9 million more vetoes. If enacted and signed, 9 million vetoes



you don't have any money to override with. For those reasons I see no reason to pass this bill, this year. Some people may look at it and I suspect it is very possible, now if you pass this the income tax is less apt to pass or if we pass this the bill dealing with commonwealth is less apt to pass, those numbers just simply don't fit, it is not a trade there. My opinion the decision you will be making, if this bill is enacted and signed, will be 9 million of vetoes of legislation other than the one, or the two rather, that I mentioned. I would urge that you give careful thought, very careful thought about adding this burden of \$9 million less revenue for this years budget numbers that we are sending to the Governor and its likely impact. At a minimum, rather than pass the bill, I would suggest, at a minimum you would want to bracket it. With those comments, Mr. President, I would yield the balance of my time to Senator Landis to respond to what I have said and I don't know if his is the next button, but as far as I am concerned the motion could be withdrawn upon Senator Landis' comments.

PRESIDENT: Senator Landis, please.

SENATOR LANDIS: Thank you and Mr. Speaker, am I the next speaker as well?

PRESIDENT: Yes, you are.

SENATOR LANDIS: I will need a few minutes to make a reply.

PRESIDENT: All right.

SENATOR LANDIS: First, I appreciate the graciousness of which Senator Warner has in fact allowed for the other side of the story to be told. That is, I think, an appropriate mechanism to discuss this issue a final time and I'm grateful for that. It is true that the infrastructure definition in 683 is broad, the needs of this state are broad and no simple and very narrow definition will adequately capture the amount of needs in the cities. Number two, it is the case that this system is not need based and the reason it need not be need based is because there is need everywhere. There isn't a corner of this state that doesn't require either updating or expanding its infrastructure that I know of. The proof and evidence of our infrastructure needs is very clear cut. DED can tell us this fact, our survey's can tell us this fact and for that reason need will exist in every community for expansion and improvement of its

infrastructure. Third, Senator Warner called this a state aid form that allowed for a guaranteed income stream to support a bond and I'd accept that definition quite adequately. I think that is a very fair characterization, it also contains the virtue of the bill. And, when he points out that the cost of this bill then is some flexibility in state funding, I, too, would say fair characterization. That is true. We lose some of our flexibility in order to turn around and give this tool to cities. That is part of the price tag of what we do. We do it every time we budget and make those kinds of choices and I hope that we will stick to the course in this situation. Yes, the cigarette tax is a declining revenue when you take into account only the consumption pattern of the future. Senator Warner did indicate that the caveat here, is that we keep our revenue base the same. I think that is unlikely, but there is no likelihood even with the one-third reduction given the fact that we are retiring state obligations one by one against it, that we have any cash flow problem in the cigarette fund that I know of. If there is, this body has not been apprised of a cash flow difficulty on any obligation that we either now have or would be creating through 683. With respect to the \$9 million in vetoes, Senator Warner again is absolutely true, and it is for this body to decide. His argument, I think essentially however could be made not only to this bill but to any other bill before us. Money that we spend in this form, given the fact that we have over spent, will require a veto someplace else. That could be said of every bill on the table that spends money. We do not know which of those bills comport with the Governor's wishes, which of those bills do not. And since that is the case, every bill runs the chance of being one of the ones that creates vetoes either in LB 813 or LB 814 or in any other of a host of very meritorious options. Frankly that difficulty has been our own creation of the last ten days or so. But there is no reason why this bill is, in some measure, some special malafactor towards that effect. It is true that Senator Warner does not see it as a priority. It is for each of us to determine whether it is a priority for ourselves but the phenomenon that Senator Warner accurately projects is as equally true, I think, of any other measure that we pass at this moment. It is a choice of the body to make and I have had fair chance to defend the merits of 683. I appreciate Senator Warner making sure that that happened and if there...I'll renew my light should discussion continue, otherwise we can proceed to reading the bill.

PRESIDENT: Thank you. Senator Warner please.

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LB 683, 683A, 705

SENATOR WARNER: Mr. President, I said I would withdraw it. I have a couple of points I forgot to mention...

PRESIDENT: You are withdrawing it now.

SENATOR WARNER: ...Senator Landis, but since I forgot to mention them I'll let them go.

PRESIDENT: Okay, it is withdrawn. Mr. Clerk, do you want to read the bill.

CLERK: (Read LB 683 on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 683 pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Have you all voted? Record, Mr. Clerk, please.

CLERK: (Read record vote as it appears on pages 2652-53 of the Legislative Journal.) 39 ayes, 8 nays, 2 present and not voting, Mr. President.

PRESIDENT: LB 683 passes with the emergency clause attached. LB 683A with the emergency clause attached.

CLERK: (Read LB 683A on Final Reading.)

PRESIDENT: All provisions of law relative to procedure having been complied with, the question is, shall LB 683A pass with the emergency clause attached? All those in favor vote aye, opposed nay. Have you all voted? Record, Mr. Clerk, please

CLERK: (Read record vote as it appears on page 2653 of the Legislative Journal.) 39 ayes, 8 nays, 2 present and not voting, Mr. President.

PRESIDENT: LB 683A passes with the emergency clause attached. LB 705 with the emergency clause attached.

CLERK: Mr. President, Senator Moore would move to return the bill for purposes of striking the enacting clause.

PRESIDENT: Senator Moore, please.

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LB 84, 630, 640, 653, 653A, 683, 683A  
705, 710, 739

we continue to raise those monies so we can operate state government at a healthy level. Even though we have expended additional dollars this year and, as many would like to say, gone hog wild, I don't believe we have. I think what the Legislature has done is prudently address each and every issue, whether it be the budget or capital construction, and made decisions and made decisions based on information that they had. And I think we made good decisions. I don't agree with them all. Many of you don't agree with certain decisions that we made. The fact of the matter is that we deliberated and debated those as a body. A majority of the body felt that those expenditures needed to be made. We made them. Now what we need to do is protect the base that brought us the ability to make those expenditures, protect that base, not just for today but on into the future. I would urge you very strongly to return LB 739 to strike the enacting clause because it is not a bill that I think at this point in time we need to pass. Should the revenues continue to flow in as they have in the past in some of our one-time expenditures, as in LB 84, and the capital construction budget go away, revenues continue to come in...

SPEAKER BARRETT: Time.

SENATOR HALL: ...maybe we need to address the issue of reducing that income tax bracket. But, at the least, if this should fail, I have an amendment up to strike Section 2 which would be the two credits which break new ground, as I said before, dealing with the issue of loss of the base and that I would hope at least the body would address. But today, at this moment, I would urge you to return this bill to Select File so the issue of 739 can basically go away and we can pay for the, I think, good public policy that we advanced over the last week. I would urge the return of the bill.

SPEAKER BARRETT: Thank you. While the Legislature is in session and capable of transacting business, I propose to sign and I do sign LB 630, LB 640, LB 653, LB 653A, LB 683 and LB 683A, LB 705 and LB 710. Discussion on the motion to return the bill to Select File offered by Senators McFarland and Hall. Senator Abboud, followed by Senators Wesely, Lamb, Nelson and Hefner.

SENATOR ABBODD: Mr. President, colleagues, I oppose any attempts to return this bill because I feel that any amendments that are attached to this bill at this late a date in the

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LB 683, 683A

PRESIDENT: We will move on to number seven and a motion, Mr. Clerk.

CLERK: Mr. President, I have a motion from Senator Warner. That motion is that the Legislature request the Governor to return LB 683 and 683A for further consideration, and later reconsider on Final Reading the vote for technical or clarifying amendments.

PRESIDENT: Senator Warner, please.

SENATOR WARNER: Mr. President and members of the Legislature, I filed this motion the other day. As I looked through the rule book, I could find no prohibition from any member making a motion to return a bill that has been sent to the Governor's desk. There is a prohibition, however, on reconsideration which is limited, essentially, to the introducer of the bill, and I think also with additional language for clarifying and technical amendments. I probably took some liberty with those two words as I tend to assume that when you are out of money that is at least a technical problem, and that is kind of where we are. This is a 4.5 million reduction in revenue for each of at least the next four years and beyond that, and we are in a position, which we will talk about later, where whatever we override comes out somewhere else, or whatever we pass comes out somewhere else, and this 9 million in this next two years obviously has to be made up somewhere. If you look at the green sheet, even through this biennium as we stand today with bills passed and bills vetoed and not overridden, we do not even make the minimum 3 percent reserve required by law. It is 2.91, if you look on the green sheet based on current projections by the advisory board. When you go out beyond that based on the assumptions, and one can argue at that point, I understand that, using different assumptions but, nevertheless, using those assumptions it is obvious we are headed for a tax break adjustment of some kind after 1991 unless things turn out much better in the economy than what has been the average. So for those reasons and an opportunity, whether then... I have no idea, perhaps the Governor has signed the bill or not to sign it. I don't know. I do know if she signs it, it means another 9 million of vetoes, and she doesn't really even have a choice because she has got to get up to that minimum reserve, and in the long-range, prudent planning for the state financially, this is even more reason to do it. With those comments, I would yield whatever time I have left to Senator Landis to, first, indicate whether he would be

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LB 683, 813

interested in reconsideration, and if he is not, then there is no point in going forward with the vote.

PRESIDENT: Senator Landis, you have a little over six minutes left.

SENATOR LANDIS: Thank you. I am not in the position to speak for all of the co-introducers...

PRESIDENT: (Gavel.) Let's hold it down so that we can hear the speakers please. Thank you.

SENATOR LANDIS: I am not in the position to speak for all the co-introducers. I do know that the League of Municipalities and the City of Omaha and the City of Lincoln do not want a reconsideration, and I am not going to impose my own vote here, and I will not request a reconsideration. Senator Warner...I would yield the balance of Senator Warner's time back to Senator Warner.

PRESIDENT: Thank you. Senator Warner, please.

SENATOR WARNER: Upon that indication, and I assume the body understands that...and we have talked about it for several days, so I am sure we all understand. Ten million is 10 million, or 9 million, in this case, and you use it one place, or you use it somewhere else, or you save it, and when I look at the green sheet, saving becomes a very attractive alternative to me for the three options we have. But under the circumstances, I will withdraw the motion.

PRESIDENT: The motion is withdrawn. Mr. Clerk, it looks like we are ready to move on to the overrides.

CLERK: Mr. President, it is my understanding LB 813 will be...

PRESIDENT: Senator Warner, are you going to...

SENATOR WARNER: I heard the Clerk read in the report. I assume I can make a verbal report on the committee's recommendations as well as the...

PRESIDENT: Yes, that would be appropriate on LB 813.

SENATOR WARNER: Maybe you were telling me something.