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Floor Debate
January 31, 2011

[LB13 LB18 LB67 LB81 LB94 LB134 LB157 LB157A LB158 LB302 LB547 LR37 LR52
LR53 LR54 LR55 LR56 LR65]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the eighteenth day of the One Hundred Second Legislature, First Session. Our chaplain for today is Pastor William Damberg from the Beatrice Mennonite Church in Beatrice, Senator Wallman's district. Would you all please rise.

PASTOR DAMBERG: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Pastor Damberg. I now call to order the eighteenth day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Are there corrections for the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: Your Committee on Enrollment and Review reports LB157 to Select File, LB157A, and LB134. I have notice of hearings from the Business and Labor Committee and the General Affairs Committee, those signed by their respective chairs. (Legislative Journal pages 409-410) That's all that I have, Mr. President. [LB157 LB157A LB134]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will move to the first item under legislative confirmation reports.

CLERK: Mr. President, the Government, Military and Veterans Affairs Committee reports on the appointment of Samuel Seever to the State Personnel Board.

PRESIDENT SHEEHY: Senator Avery, you're recognized to open on the confirmation report from Government, Military and Veterans Affairs.

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. We have a reappointment to the State Personnel Board, Mr. Sam Seever. I'll just quickly tell you what the Personnel Board does. Its duties are outlined in statute in Section 81-1318.01. Generally, the State Personnel Board administers the state personnel system which

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includes over 14,000 state employees. They determine whether issues are "grievable", they review grievance appeals for state employees, and render final binding decisions. They also review and provide counsel regarding any matter affecting the state personnel system. Mr. Seever, as I indicated, has served already on this board for some time. He's a resident of Lincoln. He is a lawyer by profession. And we had the hearing on January 26. It was voted out of committee unanimously, and we recommend that you approve this. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Avery. You've heard the opening of the confirmation report from Government, Military and Veterans Affairs. Are there members requesting to speak? Seeing none, Senator Avery, you're recognized to close. Senator Avery waives closing. The question before the body is on the adoption of the confirmation report. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 410-411.) 28 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

PRESIDENT SHEEHY: The confirmation report is adopted. (Doctor of the day introduced.) While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR52, LR53, LR54, LR55, and LR56. Mr. Clerk, we'll move to first item under Select File. [LR52 LR53 LR54 LR55 LR56]

CLERK: Mr. President, LB67. Senator Larson, I have no amendments to the bill. [LB67]

PRESIDENT SHEEHY: Senator Larson, you're recognized for a motion. [LB67]

SENATOR LARSON: Mr. President, I move that LB67 be advanced to E&R for engrossing. [LB67]

PRESIDENT SHEEHY: You have heard the question (sic). All those in favor say aye. Opposed, nay. LB67 advances. We will now proceed to LB158. [LB67 LB158]

CLERK: LB158. Senator Larson, I have no amendments to the bill. [LB158]

PRESIDENT SHEEHY: Senator Larson, you're recognized for a motion. [LB158]

SENATOR LARSON: Mr. President, I move that LB158 be advanced to E&R for engrossing. [LB158]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB158 advances. We will now proceed to LB18. [LB158 LB18]

CLERK: LB18. Senator, I do have Enrollment and Review amendments. (ER2,

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Legislative Journal page 348.) [LB18]

PRESIDENT SHEEHY: Senator Larson, you're recognized for a motion. [LB18]

SENATOR LARSON: Mr. President, I move the E&R amendments to LB18 be adopted. [LB18]

PRESIDENT SHEEHY: You have heard the motion on the adoption of the amendments. All those in favor say aye. Opposed, nay. They are adopted. [LB18]

CLERK: I have nothing further on that bill, Senator. [LB18]

PRESIDENT SHEEHY: Senator Larson, you're recognized for a motion. [LB18]

SENATOR LARSON: Mr. President, I move that LB18 be advanced to E&R for engrossing. [LB18]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB18 advances. (Visitors introduced.) Mr. Clerk, we will now proceed to LB81. [LB18 LB81]

CLERK: Mr. President, LB81 by Senator Cornett. (Read title) The bill was introduced on January 6, has been discussed on the floor on January 27 and 28. At that time, Senator Cornett presented her bill, she also opened on the Revenue Committee amendments. Mr. President, I do have Revenue Committee amendments pending. (AM14, Legislative Journal page 333.) [LB81]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Cornett, would you give us a summary of LB81 and AM14? [LB81]

SENATOR CORNETT: Yes, Lieutenant Governor, and thank you, members of the body. LB81 with the amendment and with the following amendment will limit a municipality's ability to impose a wheel tax or commuter tax outside of its boundaries. The bill was in response to the city of Omaha imposing what was called a commuter tax on people that do not live in the city, that actually live in any city surrounding, that work in Omaha. The issue with that is the bad tax policy that that establishes in that multiple jurisdictions could impose wheel tax upon nonresidents and, therefore, the residents could end up paying more than one wheel tax. The other problem that the ordinance has is the ability of the businesses to collect this from its employees. Under the wage act, if an employee refuses to sign for a deduction, then the business can be liable for this wheel tax. With that, I urge the body to support the underlying amendments, the amendment that will be coming up after AM14 corrects a drafting error and limits this ability for all cities, not just the city of Omaha. Thank you very much. [LB81]

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PRESIDENT SHEEHY: Thank you, Senator Cornett. We will now move to floor discussion on AM14 to LB81. Member requesting to speak, Senator Ashford, you're recognized. [LB81]

SENATOR ASHFORD: Am I the only light on, Mr. Lieutenant Governor? [LB81]

PRESIDENT SHEEHY: At this time, Senator. [LB81]

SENATOR ASHFORD: Okay. And there are amendments coming down, is that what I understood Abbie to say? [LB81]

PRESIDENT SHEEHY: Currently, there's one other amendment pending. [LB81]

SENATOR ASHFORD: Pending, and then there's another amendment coming down possibly. Could I ask...I'd like to have some discussion today. Maybe it will take this morning, it probably will, having a discussion about tax policy in the state and as it relates to large, urban areas like Omaha. And I think this is, as I said the other day, the positive side of having this debate this early in the session is that we can start having a thorough discussion of revenue and tax policy that side of the budget that is...especially when you're talking about raising taxes is certainly less fun, most certainly, than the other side of the budget where you're spending money. But I wanted to...or cutting taxes. As Chair of the committee, I'd like to engage, if I could, Senator Cornett in just some discussions about tax policy generally. And, and...but first ask her a question specifically about this particular wheel tax. [LB81]

PRESIDENT SHEEHY: Senator Cornett, would you yield to Senator Ashford? [LB81]

SENATOR CORNETT: I'd be happy to. [LB81]

SENATOR ASHFORD: Thanks, Senator Cornett. In the committee discussion on this bill, was there discussion about what alternatives were available to the city of Omaha to make up this revenue shortfall? [LB81]

SENATOR CORNETT: There have been a number of discussions in regards to Omaha's situation and some of the other avenues that they currently have in regards to their occupation tax, things that they could have expanded their occupation tax to include inside their own jurisdictional boundaries, their ability to raise revenues by property tax, employment tax. There have been a number of discussions in that regard, yes. [LB81]

SENATOR ASHFORD: And what would be your view, Senator Cornett, on what other revenue sources the city could tap to make up the \$5 million shortfall? Would that be

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property tax and occupation tax, is that what the committee is suggesting to the city?
[LB81]

SENATOR CORNETT: The committee is suggesting that there are options for raising revenue under existing law and it is up to the city of Omaha, as it is up to any municipality, to determine their own budget and to determine how they choose to raise those revenues to meet their budget and/or to cut their budget. All we are saying with LB81 is that you cannot step outside your jurisdictional boundaries to collect money for your shortfalls. [LB81]

SENATOR ASHFORD: And that's a fair comment, Senator Cornett. But I think you made a statement, a point that I think is critical to this discussion, and that is that the city of Omaha has budgetary authority, it has a home rule charter, it can make budget decisions regarding what revenue is raised, how revenue is raised relatively independently of the state. However, it must comply with state statute or it may follow state statutes as it raises revenue. And, of course, the problem we have here is that the state law did authorize the city of Omaha to levy this tax in the way it has done, and they did so during their budget deliberations. And now... [LB81]

PRESIDENT SHEEHY: One minute. [LB81]

SENATOR ASHFORD: ...the budget having been resolved, passed by the city council, they are being asked to...in the middle of their budget year, after the budget has been put together, after it was relied upon...after the city relied upon state law to put their budget together, obviously as we discussed last time, it was a crisis situation not only with the roads, which clearly is a crisis, but also with some of the other issues that arose because of the pensions. They had to raise taxes, raise property taxes, and this wheel tax, and a restaurant tax in order to balance its budget. So now here we are in January, the budget having been passed, and we are going to...at least it appears if this bill passes, we're going to reduce revenues to the city of Omaha by \$5.9 million. And I think that...though the state can certainly withdraw that revenue source, it does certainly make it difficult at times... [LB81]

PRESIDENT SHEEHY: Time, Senator. [LB81]

SENATOR ASHFORD: Thank you. [LB81]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Members requesting to speak: Senator Krist, followed by Senator Howard and Senator Council, Senator Haar and Senator Ashford. Senator Krist, you're recognized. [LB81]

SENATOR KRIST: Thank you, Mr. President. I guess after a long weekend of speaking with many of you and many other interests and also constituents, I still feel very strongly

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that there are potentially two constitutional issues here: one having to do with the commutation of tax and the other having to do with singling out Omaha. No matter how we change the existing language in LB81 and we amend it and we amend it and we amend it, the initial intent is understood. That intent could be taken back by the city of Omaha. Shoot, it could be taken back by any number of cities and saying, we don't want this to happen because we want...worst-case scenario, we want this ability to charge a toll, same way Bellevue and Plattsmouth do for bridges. And in saying that, I go back to the language in Article III, Section 18. So that is at the core, I guess, of some of my concern because I do not like to think about making a bad decision as a body that would cause court action and more consternation, which brings me to the review of where I think we should look again, and that is, at a minimum, at a minimum we should look at allowing the city to continue the extra territory in their jurisdiction, the ETJ as it's referred to. That, at least, salvages a respectable tax base for the city to help prepare the roads that the people going into the downtown area, the people in Omaha that are using the roads, can repair those roads and the resurfacing activity can still go on. I'm not prepared at this point to say that we have a compromise in place. I kind of feel like it's not time to do that. I've been asked also by the press and by many others, is this a filibuster? No, it's not. This is an intelligent conversation that needs to go on about changing tax policy. I have no doubt that at the end of the day Omaha will be restricted from doing something that Omaha wants to do, and I quite frankly am in favor of that because I think it sets a bad precedent. But I also remind you of a conversation I had on the mike here a couple of days ago, Thursday. Where's the League of Municipalities and the mayors in the area sitting down at the table very similar to what I think the situation was with the community colleges? And I'd like to ask Senator Adams if he would yield to a question. [LB81]

PRESIDENT SHEEHY: Senator Adams, would you yield to Senator Krist? [LB81]

SENATOR ADAMS: Yes, I will. [LB81]

SENATOR KRIST: In your area of expertise in your committee, in the Education Committee, you had a situation happen where six individual organizations could not agree--community colleges. One of those organizations wanted to use their tax money to sue the other five to get their way. Is that fair in terms of the overall view? [LB81]

SENATOR ADAMS: Yes. [LB81]

SENATOR KRIST: And the process that happened once we were able to bring them...we, I speak broadly (laugh) but essentially it's you, Senator Ashford, and Senator Flood, once you brought them to the table, there was dialogue that went on and compromise that went on. Is that also fair? [LB81]

SENATOR ADAMS: A lot of dialogue and eventually compromise, that's right. [LB81]

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SENATOR KRIST: I see this might be an opportunity for our... [LB81]

PRESIDENT SHEEHY: One minute. [LB81]

SENATOR KRIST: Thank you. I see this might be the opportunity for our body to engage in a conversation with the local, local control--remember--local control, local control, local control. Bring the local control initiative in place and see if we can't get them to sit down at a table and solve their internal problems. I'm going to come back up on the mike and talk about situations in other cities similar who have other issues that they have solved in different ways. I think it's time that we put this aside for a while and come back to it after they've had an opportunity, an honest opportunity to solve their own problems in the metropolitan area. Again, I don't think this...this is good legislation. I think in order to make it better, we'd have to amend it. I don't think that's what we want to do. I think when something comes to the floor and it's not well-thought-out, we should somehow make sure at the end of the day that's it's quality legislation. [LB81]

PRESIDENT SHEEHY: Time, Senator. [LB81]

SENATOR KRIST: Thank you. [LB81]

PRESIDENT SHEEHY: Thank you, Senator Krist. Speaker Flood, you're recognized for an announcement. [LB81]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. Last week, we had talked briefly about this and you'll see on today's agenda it shows a start time of 9:00 a.m. tomorrow morning. Lancaster County and Douglas County and parts around the state are currently under a winter storm warning. We're expecting six to seven inches in the Lincoln area with 40-mile-an-hour winds tomorrow, six to eight inches in the Douglas County area with 40-mile-an-hour winds. For that reason, we're going to start at 10:00 a.m. on Tuesday and Wednesday. I'm anticipating a 9:00 a.m. start Thursday and Friday. Again, a 10:00 a.m. start Tuesday and Wednesday and use caution if you're driving. And certainly we can afford to not see you one day if your safety is at risk, but we do ask you to use caution and we'll start at 10:00 a.m. Thank you. [LB81]

PRESIDENT SHEEHY: Thank you, Speaker Flood. Continuing with discussion of AM14 to LB81. Members requesting to speak are Senator Howard, followed by Senator Council, Senator Ken Haar, Senator Ashford, Senator Carlson, and others. Senator Howard, you're recognized. [LB81]

SENATOR HOWARD: Thank you, Mr. President. And I want to take just a moment to thank everyone that's been so supportive after I fell on Friday on the ice. And it's very

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heartwarming to know that people down here genuinely care and we all value one another. In looking at this issue of taxation, Senator Krist makes such a good point. I think the way to solve the problem...and we all do recognize there is a problem, everyone is coming up short. The way to solve the problem is for these municipalities to sit down together and say, how can we collectively work on this issue. Now I'm sure when Councilman Chris Jerram proposed this idea, he had actually...this is actually the second idea that I'm aware of that he proposed because initially he proposed, as I remember, taxing satellite dishes which would have been more of a local issue in Omaha. But when he proposed this issue, he informed everyone that it was completely legal to do this and that individuals would sign off on a sheet allowing their employer to deduct this amount of money that would be paid into the city to keep up the roads. And it sounded like a reasonable proposition. Unfortunately, people that are coming into Omaha living in Sarpy County, Ralston, other communities are saying: Whoa, whoa, whoa! We don't live here, this isn't our responsibility. And those people that do live in Omaha such as myself, see an increase in our wheel tax from \$35 to \$50. Now I haven't gotten any e-mails or phone calls from people that are saying: This is unfair. We don't want to pay it. We know we need to keep up our roads. We know it's our responsibility, but, hey, we'd like other people who are also using these roads on a daily basis, not occasionally but a daily basis, to help us with keeping these roads in the condition that we all want to see them in. It's a shared problem. Unfortunately the solution to this problem hasn't been shared. I'd like to get some clarification, maybe it's an opportunity for a little additional knowledge on the subject. If Senator Cornett would yield to a question or two? [LB81]

PRESIDENT SHEEHY: Senator Cornett, would you yield to Senator Howard? [LB81]

SENATOR CORNETT: Yes. [LB81]

SENATOR HOWARD: Thank you, Senator Cornett. I can clearly understand the problem, the dilemma that we're in, the solution that we're trying to reach here with this bill. I think it would be helpful if you could explain to those that don't live in Omaha, or the area, the current practice with the wheel tax in collecting not only from the Omaha residents but from people that do live in what's called the three-mile area. I'm sure many people on this floor don't have a complete comprehension of that. [LB81]

PRESIDENT SHEEHY: (Gavel) [LB81]

SENATOR CORNETT: I would be happy to, Senator Howard. Currently, the wheel tax is paid when you go to register your vehicle. It's paid at the time of registration unless you're a city employee that lives outside the city limits, then it's deducted from your paycheck. If you live in the ETJ, you pay that when you register your vehicle also. What the city is trying to do with their ordinance and the commuter tax is to say that if you do not live in that ETJ and you live in another municipality or even in another state and you

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work in the city of Omaha, that you have to remit a \$50 wheel tax or commuter tax for working in the city. [LB81]

SENATOR HOWARD: More specifically, could you explain what the ETJ is and how that came to be included in the Omaha wheel tax, and how far back does that go? What's the history on that issue? [LB81]

SENATOR CORNETT: I'd have to look at exactly how far back the ETJ in regards to the... [LB81]

PRESIDENT SHEEHY: One minute. [LB81]

SENATOR CORNETT: ...wheel tax itself goes. The city of Omaha started imposing the wheel tax in the ETJ either four or five years ago. In committee, I offered an amendment to include the ETJ for the city of Omaha. The rest of the Revenue Committee felt that that defeated the purpose of taxing outside the municipal boundaries of the city of Omaha. [LB81]

SENATOR HOWARD: So at the current time, that...as the bill stands or even with amendments, will that be removed? [LB81]

SENATOR CORNETT: With the amendments, LB81 will limit all municipalities throughout the state to the...the ability to impose a wheel tax inside their municipal boundaries and will not include the ETJ. [LB81]

SENATOR HOWARD: Could you repeat that? There was some talking. This will remove the ability of the Omaha... [LB81]

SENATOR CORNETT: It will remove the ability of all municipalities. [LB81]

PRESIDENT SHEEHY: Time, Senator. [LB81]

SENATOR HOWARD: Thank you. [LB81]

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator Council, you're recognized. [LB81]

SENATOR COUNCIL: Yes, thank you, Mr. President, colleagues. As we started this discussion last week, we discussed the role and the responsibility of this body to set tax policy for the state, and no one disagrees with that. But in establishing a policy that is as significant as tax policy, we need to be careful, measured, and thorough in our decisions in that regard. And my concern is that what prompted LB81 kind of distracted us from the underlying issues regarding state tax policy and local authority's ability to

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generate taxes from individuals who reside outside of their city limits. And if Senator Cornett would yield to a couple of questions, please. [LB81]

PRESIDENT SHEEHY: Senator Cornett, would you yield to Senator Council? [LB81]

SENATOR CORNETT: Yes, Senator Council. [LB81]

SENATOR COUNCIL: Yes, thank you, Senator Cornett. [LB81]

SENATOR CORNETT: And I...let me preface this with, I was talking to Senator Mello so I did not hear what you were saying. [LB81]

SENATOR COUNCIL: Okay. I was just talking about the need to be thorough and measured when we're making decisions to change or adopt new state tax policy. And when I read the initial draft of LB81, it prohibited cities and villages, regardless of their size, from imposing a license or an occupation tax, is that correct? [LB81]

SENATOR CORNETT: That was the intent, yes. [LB81]

SENATOR COUNCIL: Okay. And my question by way of background is that the city of Omaha, in coming to the decision as to how to best raise the revenue they needed to operate during this fiscal year as well as to address some budget shortfalls resulting from previous fiscal years, had given consideration to imposing an occupation tax. That proposal was not acted upon, but the city council and the mayor did consider imposition of an occupation tax. The question I have was, in the discussion of the original version of the bill, did the Revenue Committee engage in any real discussion on the ability of cities and villages to impose an occupation tax? [LB81]

SENATOR CORNETT: Senator Council, an occupation tax is something that has been weighing heavily on both my mind and the committee's minds. If you look at the other bills that are introduced, Senator Fischer has introduced a bill on occupation tax, and then I have introduced one not to take away a municipality's ability to impose an occupation tax but to look at how it is imposed. So, yes, occupation tax as a whole is definitely being looked at, as was TIF, for all municipalities. It's just, frankly, I ran out of time and ability to be able to tackle that...TIF also this year. [LB81]

SENATOR COUNCIL: Right. So in terms of state tax policy, is it fair to say based upon LB81 with the current Revenue Committee amendments that LB81 and the current Revenue amendments recognize the ability of a municipality to currently impose an occupation tax? [LB81]

SENATOR CORNETT: Yes. [LB81]

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SENATOR COUNCIL: And isn't it true that in existing statutes, in addition to the bill that you have... [LB81]

PRESIDENT SHEEHY: One minute. [LB81]

SENATOR COUNCIL: ...referenced, that collection of an occupation tax is permissible currently? [LB81]

SENATOR CORNETT: The collection of an occupation tax is permissible currently. I see where you're going with this, but go ahead. [LB81]

SENATOR COUNCIL: Okay. So that's...I mean, because my concern is that we talk about establishing state tax policy. And if LB81 in its original form was addressing occupation taxes, then I'd want this body to be mindful that if LB81 with the Revenue Committee amendments are adopted, that question of occupation taxes, whether or not I'm not sure if Senator Cornett's other bill will present that issue again, I just want to be sure that we don't find ourselves next year if the city council of Omaha... [LB81]

PRESIDENT SHEEHY: Time, Senator. [LB81]

SENATOR COUNCIL: Thank you. [LB81]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Ken Haar, you're recognized. [LB81]

SENATOR HAAR: Mr. President and members of the body, I'm really interested in this bill for a number of reasons. One is, Lincoln has some of the same kind of commuter problems and pothole problems, and this whole discussion of taxing I find very useful. And Nebraskans are people...okay, there are two things that have come into play here and both of them affect sort of who we are as Nebraskans. First of all, the idea of taxation without representation is something we don't like, but Nebraskans are also fair. They pay for...I'm sorry, they believe in paying for what they use. In fact, I've seen people at Shopko and etcetera, if they were not...if they were undercharged for something or the clerk made a mistake even, telling the clerk that a mistake was made because they want to pay for what they use. So I think we're not addressing that whole area of, we need to pay for what we use. I also go back to Senator Adams and to his insight saying that taxes have to be fair, they have to be easy to administrate, and then I added the third one of they have to be predicable and somewhat consistent so that governing bodies can make decisions. By the way, I just want to quick throw in: In the Netherlands starting in 2012 instead of paying gas tax, they're going to be charged GPS road tax. In other words, a car will pay or a truck or whatever will pay for the miles that they've driven on the roads. So I think we're going towards a use tax eventually, and that makes it even more important that we deal with this whole area of what's fair and

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how do we pay for what we use. I've been thinking about this a lot this weekend, and I came up with four ideas that may be parts of a compromise, and I'd like to read those now. Haven't drafted them. I've talked to a number of senators about it: (1) is, maintain the status quo before the new wheel tax. In other words, the city of Omaha can continue to collect wheel taxes from people living within the three-mile radius of Omaha zoning authority because if we pass LB81 the way it is now, it's not a \$3 million hit; it's closer to a \$5 million or \$6 million. Again, these aren't perfect but they give maybe a basis for a compromise. Place a two-year moratorium on a wheel tax on citizens outside the zoning authority. (3) the Legislature expects cities and interested stakeholders to use these two years to work out a compromise plan. This plan could include revenue sharing or some other mechanism so that the daily users of a city's roads pay for them. And then (4), if the cities cannot come to an agreement after two years, then the Legislature will impose its will. I model this after the skillful work of Senator Adams and Senator Ashford in the Education Committee and the problems we were having with community colleges unable to come to some agreement on how to award their state monies with a formula. And basically the Education Committee and the Legislature said: Look, we're going to give you some time to figure this out in a fair way and if you can't, we'll do it for you. And so I'll send a copy of these four elements and, again,... [LB81]

PRESIDENT SHEEHY: One minute. [LB81]

SENATOR HAAR: Thank you. Again, the years may not be right, some of the items may not be right, but some of these elements, some of these four elements could be the basis of a compromise that doesn't put Omaha at immediate risk but also recognizes that it's only fair that if we use roads, we pay for them. Thank you very much. [LB81]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Ashford, you're recognized. [LB81]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. And apparently there is a compromise running around the body somewhere I have not seen, but apparently it has to do with leaving the three-mile-limit tax in and letting Sarpy County go. That bothers me a great deal and it's not a compromise that I can support. To me, there's very little difference...if there is such a compromise and maybe there are 48 votes for it, but I'll be the 49...I don't get there very often (laugh) where I'm the only one against something, but I don't like that compromise and I'll tell you why. I don't see a whole lot of difference between Beau McCoy's district and the people that live in unincorporated areas that may or may not ever get annexed, you know, having to pay the tax and somebody across the Harrison Street not having to pay the tax. I understand the issue of collection, and I think that's the strongest reason for taking another hard look at this tax. My point is that to do that now without the ability of the city...and I...Senator Council has made several, I think, very astute arguments about that very fact. To put the city of Omaha in this kind of budget jeopardy in normal times is not something we do as a

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Legislature, nothing that I can even recall ever doing it before. But to put our city in this kind of situation in the middle of a budget year when it is in difficult financial straights is an added burden and...but we've made that point. We've talked about that and that argument doesn't seem to be (laugh) making much...doesn't seem to be making any inroads, I don't believe. So I think we definitely need a comprehensive plan for Sarpy and Douglas County on roads. I think Senator Mello brought that point up on...last week. But I do harken back to the community college discussion. This is not contentious at all compared to that. And if it weren't for Senator Harms standing up, Senator Flood, certainly Senator Adams as Chair of the Judiciary Committee, and spending the time it took to come up with a comprehensive plan, we'd still be fighting the community college issue. We're not fighting it because of those individuals who...and Senator Cook who's...Metro Community College is in her district by introducing the bill that brought everybody to the table. That's how we should be dealing with issues like this. But I am not going to support any compromise that divides the Omaha delegation in half, that divides the city of Omaha and Douglas County in half, I'm just not going to do it. I'm not going to do it. The city of Omaha needs this year to collect itself, put together a budget. If it is this body's desire to get rid of the wheel tax, so be it. So be it, but let it be done in a normal, prudent manner, in a way that gives the city of Omaha the opportunity to budget appropriately and to find revenue to make up the difference. I would rather sit down with Senator Fischer who is a leader in the area...obviously, we all know this, in the area of roads funding not only in the state but in the entire country among state legislators, I'd rather sit down with her and come up with a comprehensive plan for roads that addresses Sarpy County's issues, that addresses the issues in Douglas County. I think that makes sense. But in the interim, in the interim, it is imprudent, it is... [LB81]

PRESIDENT SHEEHY: One minute. [LB81]

SENATOR ASHFORD: ...it is I find very little precedent for changing tax policy which has been in the books for 50 years or however long it's been there, to change tax policy in the middle of a city's budget year under the circumstances that it now finds itself. But I will not support any compromise that divides the city of Omaha or the three-mile limit and taxes them but does not tax Sarpy County. That makes absolutely no sense to me. I won't support it. It's not a...it's a compromise to get us to Select File. That's not good policy. We need to think about this in terms of broad policy, roads policy, tax policy, and that's not done with those kinds of compromises. Thank you, Mr. Lieutenant Governor. [LB81]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator Carlson, you're recognized. [LB81]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. As I look around this morning, we have a few people missing and I think there are several of

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us that kind of believe this LB81 discussion has gone on long enough. We have interests elsewhere and yet we shouldn't be that way. I'm going to ask those of you that represent rural Nebraska, basically in your district, I'd really like your attention for a couple of minutes this morning discussing this bill because we're talking about tax policy, important tax policy. And the wheel tax is a user fee. I like a user fee. People that use it should pay for it. Although a wheel tax is a flat tax and it's the same for everybody regardless of miles driven and it's miles driven that determines wear and tear on the road. Now we're in a different climate right now in the state, and we all know this, for raising funds. We don't have money at the state level to help in many of these problems. So we've got to allow local government entities to find dollars to solve their own challenges, and particularly when there are not adequate state dollars for meeting these challenges. We must do that. But it also must be a good tax policy. Now I'd mentioned this before but I'm mentioning it again. Last session, Senator Christensen's bill LB862 was a bill that we discussed and it allowed NRDs to impose an occupation tax. There was difficult discussion, and the Governor had real reservations about LB862 before signing the bill. It was a tough one to pass. Now let me ask those of you that had an interest in that bill...and it did pass and we have the occupation tax as a tool that NRDs can use to raise dollars to meet their challenges. Without that, they've got handcuffs; they cannot meet those challenges. But what if as a part of that bill it would have come up in discussion that the occupation tax could have been used by one NRD to expand its territory around and reach into another NRD and impose that occupation tax? Would you have voted for LB862? I think not. And so I don't see that as a whole lot different than what we're discussing here. The city of Omaha has its challenges and we want local entities to be able to solve local problems but it needs to be good tax policy. I'm continuing to listen, but unless I hear something different, I equate it to what we faced at the NRDs and I don't think it's good tax policy to be able to extend your area and bring other people in. There are people who live in Bellevue that work in Omaha; there are people in Omaha who work in Bellevue, so we've got the same thing that could work both directions. I don't believe that's good tax policy. Thank you for listening and I'll continue to listen to what those of you have to say about this bill. [LB81]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Members requesting to speak on AM14 to LB81, we have Senator Krist, followed by Senator McCoy, Senator Council, Senator Ken Haar, Senator Avery, and Senator Ashford. Senator Krist, you're recognized. [LB81]

SENATOR KRIST: Thank you. Colleagues, I listened intently to Senator Carlson and I appreciate his read on the situation because I guess that's what I've been saying for the last five days. I don't agree with the city in the entire package taxing the way that they are taxing. I think that they've been doing what they've been doing for the better part of five years and they should continue to do that. We've discussed the SID structure in terms of people who actually live inside the city limits using the city roads, going in different directions. And today, it really has come from many, many speakers on the

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mike, it has come to the point where we realize once again we are talking about Omaha. It came out of the barn as Omaha, it continues to be talked about as Omaha and, as such, when we look back at this if we vote for this after the upcoming amendments, we will be saying that we have singled out an issue in the state and we have legislatively brought an end to a local control, a local municipality's correct assumption that they were legal to do something within the existing tax code. Think about that. And I could talk about whatever city is important to you, but if you ever get to a point as an NRD and as a city in this state, if you ever get to a point where you need to reach out and tax in some way to survive, at least under this wheel tax issue we will have changed it. It will be gone. It will not be an option. I agree with Senator Carlson 100 percent. Going outside of your jurisdiction may be an issue. But remember, the dichotomy here or the problem that we have is these people, some of them at least as I am suggesting within the three-mile, we call it the ETJ, they live inside the city limits of Omaha, in Douglas County, unincorporated, but within those city limits structures. They use the city for all. So we're talking about not allowing them to do that. And right now I see that that's not a negotiable point with the bill as it exists right now. Can we talk about additional jurisdiction and where that should be? Absolutely, but this is a conversation that probably should have gone on before it ever came to the floor for debate. I'll make the point again that Speaker Flood had said early on in the process, please make sure that when things come here, they are well-thought-out, there are no unintended consequences, that you have worked out issues and you've allowed...I heard the message that you will allow people to solve their own problems before you try to solve their problems for them with legislation that is unique. And, once again, I refer you back to the constitution. If there's an element of doubt in your mind that we are entering an area that will be unconstitutional, I really believe you should take a step back, take a breath, look at the legislation and say, is this the best piece of legislation we have? I'm reminded not because I was here but because I look at the lessons learned in this Legislature, I was reminded of a time many of you were here where the learning community effort came out of committee and there were, I think, 132-page amendment to make it right. And it was dropped on you overnight, and the next day debate went on. Is that the way we want to legislate? [LB81]

PRESIDENT SHEEHY: One minute. [LB81]

SENATOR KRIST: Is that the standard that we want to set? I think not. I just can't support it in its current form. I don't think that any amendment in the world is going to take away the initial odor of it being all about Omaha. I don't agree with the taxing in the way that it was done. I represent people in Omaha. They would love me to stand up here and say, hammer them, hammer them, hammer them. I can't do that, not this way. And I think the educated voter understands. A bad piece of legislation is bad for the entire citizenry of this great state. Let's go back and let them solve their problems, let's facilitate this at a local level because there's plenty of examples. On my third and final time I'll talk about some of those examples. [LB81]

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PRESIDENT SHEEHY: Thank you, Senator Krist. Senator Council, you're recognized.
[LB81]

SENATOR COUNCIL: Yes, thank you, Mr. President. And I echo Senator Krist's comments and have to respectfully disagree with my learned colleague Senator Ashford. But I believe that the taxation and the extraterritorial jurisdictional limit must be maintained at this point in time. We talk a lot about local control and I've heard it woven through comments from my colleagues in all the days that we have been debating this particular subject, and in this case we have to be mindful of what gave rise to LB81. What gave rise to the firestorm around LB81 was Omaha's extension of its collection of the wheel tax beyond the extraterritorial jurisdiction limit. There had been no such firestorm before that and, in fact, that wheel tax has been collected since 2006. I am not unmindful of the issue and the legitimate issues that have been raised regarding the collection of the wheel tax from nonresidents outside of the ETJ and because of that, I think in fairness, if LB81 with the current Revenue Committee amendments is passed, Omaha will lose close to \$6 million out of a budget that statutorily we prohibit them from going back and altering. Instead, they would be forced to make additional cuts in services to the residents of the city of Omaha, and in future budget years would have to look at other revenue sources, which is why I raised the question when I was earlier on the mike is, what is or will be the state's tax policy, the policy with regard to occupation tax? In terms of fairness, in terms of recognition of what apparently is a majority of this body's belief that taxing should not extend beyond a city or village's city limits, that in all fairness in terms of the city of Omaha and where it finds itself, and to eliminate the suggestion that this is a bill targeted at Omaha designed to punish Omaha, that at a minimum this body should allow Omaha to continue to collect the wheel tax from nonresidents in the ETJ until the end of its current fiscal year. That budget has been approved, submitted and approved in accordance to the statutes we imposed. And the statutes we imposed do not permit them to go back now after we have said, what you're doing, what you did last year in setting your budget is no longer appropriate, is no longer lawful. We don't provide them an out to go back and alter their budget. We don't allow them to open...and open for lack of a better term, an open enrollment period to go back and make adjustments in their budget. No. Instead we expect them to eat, at a minimum, a \$3.1 million shortfall and at the maximum a nearly \$6 million shortfall.
[LB81]

PRESIDENT SHEEHY: One minute. [LB81]

SENATOR COUNCIL: I think in fairness and if we talk about tax policy, that should be one of the guiding principles in a state tax policy is fairness. And since the city of Omaha was operating pursuant to this body's statutory guidelines, that we should entertain an amendment, and I say successfully entertain an amendment, to allow the ETJ collection of wheel tax to continue at least until the end of this calendar year. And I

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think it's significant to note that the person who introduced LB81 even recognized the fairness inherent in that amendment because she sought to introduce such an amendment in the Revenue Committee. And I'm sorely disappointed that the balance of the Revenue Committee did not appreciate and recognize that Senator Cornett was, in fact, recognizing... [LB81]

PRESIDENT SHEEHY: Time, Senator. [LB81]

SENATOR COUNCIL: ...the inherent unfairness. Thank you. [LB81]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Ken Haar, you're recognized. [LB81]

SENATOR HAAR: Mr. President and members of the body, again, talking about tax policy and how we do it. We have a lot of local control across the state in all kinds of boards, and many of them set tax rates. An absolutely important part of that if we expect local control to work is that there are predictable and consistent rules. Now those rules can change but the retroactive change of rules makes it even more difficult for people at the local level. Again, I believe this is a user tax. I certainly agree with Tom, Senator Tom Carlson on that one. And I think we're going to have to deal with this issue, especially with roads of, how do you use a user tax in a fair way if people outside your taxing authority use roads, for example. We've talked...not much lately, but we talked initially about the whole thing of sales tax. And I want to bring up another point that with the issue of sales tax, and now there's a limit on what municipalities can do, but if there were no limits and let's say Omaha set a sales tax rate of 10 percent, nobody would buy stuff in Omaha anymore. So there are always political consequences of local control and the way they use that taxing authority. Certainly the recent recall election and I personally am happy with the outcome, but that was partially a result of the political consequences of how localities exercise their taxing authority. So, again, I'm not sure the four things I handed out are the solution or one or four, three or four of them, but I think we've got to face this problem and I think it's a Nebraska value that if we use something and it's fair that we should pay for it. One possibility I believe, you know, we covered wheel tax in this. We didn't cover permits. You know, what if somehow the use of roads became a permitting process? I have no idea how that would be administered, but I'm just suggesting there are other ways that might come up and I think a unified action, a unified getting together of municipalities to talk about this would simplify, would give us consensus, otherwise we've just started a process and there's never going to be an end to it. We're going to nickel and dime this to death. And I would give the rest of my time to Senator Council if she wishes. [LB81]

PRESIDENT SHEEHY: Senator Council, you're yielded 1 minute 50 seconds. [LB81]

SENATOR COUNCIL: Yes, thank you, Mr. President and thank you, Senator Haar.

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When I ran out of time the last time I was on the mike, I was speaking to the fact that there was a recognition on the part of the senator who introduced LB81, that in fairness to a city who has set their budget and submitted their budget to the state in accordance with existing statute and is unable to alter that budget, if LB81 and the Revenue Committee amendments as they stand are enacted, that in all fairness and to address what is, I will state, a legitimate concern about collection of the tax from individuals who reside... [LB81]

PRESIDENT SHEEHY: One minute. [LB81]

SENATOR COUNCIL: ...outside the ETJ, that in order for us to move forward and provide an opportunity for some discussion on regional basis of the correct transportation tax policy to be implemented by the state, that at a minimum...and there is an amendment being drafted, I'm just humbly requesting that my colleagues consider adopting an amendment that would allow the city of Omaha to continue to collect the wheel tax from individuals within the ETJ and be prevented from doing it beyond the ETJ. And then if there wishes to be some interim study to discuss this regional transportation issue because the roads are an issue...and as I stated last week, you know, individuals want to operate their vehicles... [LB81]

PRESIDENT SHEEHY: Time, Senator. [LB81]

SENATOR COUNCIL: Thank you. [LB81]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Avery, you're recognized. [LB81]

SENATOR AVERY: Thank you, Mr. President. I haven't quite made up my mind what I'm going to do on this bill yet. The issue seems to be how far should user fees be extended. I would point out that user fees are quite commonplace in our society. We pay user fees for the use of many public services and facilities. At the federal level, in fact, there is a charge for walking to the top of the Statue of Liberty. There is a charge to drive into many state...many national parks. There is a charge even for particular services in the Library of Congress. States may charge tolls for driving on highways, may impose fees on those who camp in state parks. Communities use fees for entrances to public swimming pools. We pay fees to park in our cities and towns. So I'm suggesting here that perhaps the wheel tax is not that unusual. The question here is not whether we will have user fees but who will pay them. In general, I support the notion that people should pay to maintain the things that they use. One approach to not charging fees, of course, is to suspend the service. Obviously we are not going to do that. This is not an option for Omaha. They can't just shut down the streets and roads, they're too essential. And they're not going to set up roadblocks to keep people out who don't want to pay the user fee. We use a fuel tax here in this state. The fuel tax is used

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to help fund roads, and that's generally thought to be quite acceptable. People pay the user fee in the form of a fuel tax from out of state and from instate. So, again, I emphasize the question is not whether we will impose user fees because we do it in all manner of ways, but upon whom will we impose them. The question seems to be, are we going to allow certain parts of the Omaha area to be exempted from paying a user fee or are we not? I am willing to keep an open mind on this, but I can tell you that it seems to me that if you use the streets, you ought to be willing to help pay for them. That's what this wheel tax is for. I know there are other arguments that have been made that I find appealing and that has to do with the authority that we have given to cities to impose such fees, and this is an important decision we would be making with respect to the tax policy of the state. But I'm asking my colleagues to convince me, help me figure out what is the right decision here. Because if we exempt, if we say, all right, you can only charge a user fee for certain people who use these services and these facilities but not others, seems to me that is not good policy. Thank you. [LB81]

PRESIDENT SHEEHY: Thank you, Senator Avery. Mr. Clerk, you have an amendment to the amendment. [LB81]

ASSISTANT CLERK: Mr. President, Senator Ashford would move to amend the committee amendments with AM184. (Legislative Journal page 412.) [LB81]

PRESIDENT SHEEHY: Senator Ashford, you're recognized to open on AM184 to Revenue Committee AM14. [LB81]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. This amendment provides that, "No registration fee shall be required of a person who resides outside of the limits of the extraterritorial zoning jurisdiction of the city until January 1, 2013. Until January 1, 2013, the city shall work with interested parties to form a compromise plan regarding the assessment of such fee to ensure that the users of the streets of such city contribute to the maintenance of such streets." I'm going to withdraw this amendment because there's another option being discussed, but I just want to get up one more time and...and I actually agree certainly with my colleague, Senator Council, about the need for revenue and the inappropriateness of taking revenue away from the city in the middle of a budget year. She's absolutely spot on and right and correct. And I hope through this process that we can, number one, think about a better tax policy for cities so...especially large urban areas like Omaha and Lincoln, where they can access revenues in a broad-based way that will allow their cities to do the kinds of things they need to do to continue to be economic engines for our state. They can't do that if we change tax policy willy-nilly on them. But I think we've got an idea now which is a little more interesting that would allow the tax in the unincorporated areas, the extraterritorial areas to continue until January 1, 2013, which would give the city 2011 and 2012 to collect that tax. In addition to that, though, I think someone else has brought up, Senator Mello I think on Friday, brought up the idea of a roads plan for Sarpy County and

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Douglas County that makes sense with shared revenues. We desperately need a metro areawide planning, roads planning initiative in our area. This idea of working in silos in Sarpy County, in Douglas County, on roads funding and construction is nuts, to say the least. I don't know, it'll be my 13-year-old's generation probably that finally comes to grips with the fact that Sarpy County and Douglas County is one metro area. And the people who live in...many people who live...40 percent I believe or 35 to 40 percent of workers in Douglas County or in Omaha come from Sarpy County. We're one city basically. We're not a whole lot different than St. Paul and Minneapolis. I know in Minneapolis/St. Paul there's an areawide metro area planning agency that actually has the ability to levy a tax for things like light rail or road construction or whatever it is. But I think we need desperately to get there. And any plan that we come up with on roads needs to be a part of this bill. We need to direct those two counties to work towards a solution on this issue. But in any event...and I'm going to withdraw the amendment in just a moment, Mr. Lieutenant Governor, because there is another amendment I believe coming down, or maybe we'll do it tomorrow, that will address collecting the revenue for 2011-2012 from the extraterritorial areas of the city. But in summary, I just would say this, that these are difficult, complex issues that should not be addressed piecemeal. They should be addressed in a comprehensive way. In the end, if this starts a discussion towards a better tax policy for our entire state and our metro area, that's great, that's great. But we should not be afraid to discuss taxes because of being branded as a tax...favoring increasing taxes or increasing revenues through taxation. We shouldn't be afraid of that discussion. And I know Senator Cornett and her staff, certainly the Revenue Committee staff is extremely expert in the area of tax policy in our state. We need to have this session...and Senator Pahls is absolutely right in bringing up the issue of exemptions, we need a broader-base tax. The city of Omaha needs the ability to raise its sales tax. Maybe the way we should do it is look at a metro area sales tax that would allow those two cities to...or those two counties to cooperate on projects. By so doing, lower property tax and...which I believe since I was here in the eighties with the passage of LB1059 in 1991, the policy of our state was established, and that is we should look for ways to reduce our reliance on property tax. That has been the policy of our state for 30 years. And if it be our policy, then we should look for ways to help get us there not only in aid to schools but also aid to cities and allowing cities to raise the kinds of revenues they need to advance into the twenty-first century. We need a new way to govern. We need a new way to raise revenues that is not going to be a burden on the taxpayer but it's going to allow our cities to grow. And I think though this has been a piecemeal discussion at the beginning of it, we are now maybe getting closer to some sort of broader-based, solution-generating kind of process. That's better. It's a lot better. But Senator Council is right. The city has needs. Many of those needs were driven by conditions not outside the control of city managers over the last 30 years but certainly that have come to the fore in the last couple of years. Our city government is trying to manage those problems, and we do need the Legislature to be informed about that, to understand the repercussions of its acts as it relates to the city of Omaha and the city of Omaha's ability to be the...an economic engine along with agriculture and all

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the other cities across our state, the economic engine of our state. So with that, Mr. Lieutenant Governor, I will withdraw the amendment. [LB81]

PRESIDENT SHEEHY: AM184 to AM14 is withdrawn. We will now return to floor discussion on AM14 to LB81. Members requesting to speak, Senator Ashford, following by Senator Krist, Senator Council, Senator Harms, Senator Ken Haar, and others. Senator Ashford, you're recognized. This is your third time. [LB81]

SENATOR ASHFORD: Already? (Laugh) I suppose I could be overridden if the...my colleagues desire me to speak more, but I don't see an overwhelming...I would relinquish my time to Senator Cornett at this time if she... [LB81]

PRESIDENT SHEEHY: Senator Cornett, you're yielded 4 minutes 40 seconds. [LB81]

SENATOR CORNETT: Thank you, Lieutenant Governor and members of the body. I have to tell you, this morning is one of the days that I am most heartened by how the Legislature works together. Senator Krist had mentioned multiple times, why didn't the mayor sit down and work this out? Well, they didn't. Maybe they weren't given the opportunity to. But inside this body this morning I think that we have come up with a workable compromise. Senator Ashford has touched on that. In the beginning, as I have mentioned, I offered an amendment in committee to allow Omaha to keep the ETJ, the extraterritorial zoning jurisdiction because they had been using that in their budget for the last four years and I felt that we would be disrupting their budget too much with that. Working with the Omaha delegation and with the senators from Sarpy County and with the senators that represent the rest of the state, we have come to a compromise that we are working on getting drafted currently. And I'm just going to give it to you in little pieces here. First, we do get rid of the commuter tax or the commuter fee for people coming in outside the metropolitan area and the ETJ, in other words, Bellevue, Gretna, Springfield, Cass County, as of 2012, as the amendment is currently drafted, but we allow the city of Omaha the ability to budget for losing the ETJ for a two-year period. So the ability to tax into the ETJ would be "sunsetting" as of 2013. But along with this and with the sunset we are working on establishing a commission. No fiscal note. That's where we're going to...and that will be the part that we'll address on Select File, to look at the metropolitan area as a whole. And that was a suggestion I had made to the city of Omaha earlier that we have to stop looking at each individual community as islands and Omaha has to stop looking at Sarpy County as a suburb. That was testified to and, I will admit, annoyed my mayors beyond belief in the committee that all the cities in Sarpy County kept being referred to as suburbs of Omaha. We are not suburbs. We are separate municipalities. But we are all part of the metropolitan area; we all use the roads; we all work in one another's communities; and we need to start looking at ourselves as a metropolitan community, as Senator Ashford has said. I hope to have the amendment to you in a few moments and I would yield the rest of my time to Senator Council. [LB81]

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PRESIDENT SHEEHY: I'm sorry, Senator Cornett, you cannot yield Senator Ashford's time. [LB81]

SENATOR CORNETT: Then I am done. [LB81]

PRESIDENT SHEEHY: (Laugh) Thank you, Senator Ashford. Thank you, Senator Cornett. Senator Krist, you're recognized. This is your third time. [LB81]

SENATOR KRIST: (Laugh) Colleagues, I'm sure you're glad it is my third time. I would like to rise and just tell you that I, too, am extremely happy and confident that when 49 minds come together on different issues and different levels, that they can come to a compromise that is the good thing for the state of Nebraska and the citizens of Nebraska. I'm going to use my five minutes as I promised earlier, or part of it, to talk about conceptually I think where we need to go, which Senator Cornett alluded to on the mike. Senator Mello and I have had conversations off the mike. Senator McCoy and I have had conversations. And I think what's best for the city is what's best for the state, Sarpy, Douglas, the entire metropolitan area. If you have the time, and I know you don't have very much reading to do, look at the city of Kansas City, Missouri, and Kansas City, Kansas, and how they have apportioned the tax that is shared in that metropolitan area. Look at the example of St. Louis and St. Louis County which, by the way, is an extremely...you would think St. Louis, it's a huge landmass. It's not. It's landlocked by the counties around it. St. Louis County and St. Louis, Missouri, the city, along with the city of East St. Louis on the other side of the river have a similar construct. I would say that rather than reinvent the wheel, what we should do is look at those in this commission, look at the opportunity to come together. The strength of the metropolitan area as an economic engine for this state will be determined by the local leaderships in Sarpy, Douglas, Cass, Washington, and probably several others around, finding resolution to potentially a mass transit system, finding potential to keeping roads absolutely passable. And I go back to Senator Cook's comments about me and mini me. You know, we bring people into this city and we're showing off the city during the college World Series, during the baseball games that go on now in Sarpy County, and the first thing they do when they drive out of Eppley is hit two big potholes. That's not the way we want our city and our metropolitan area and our main economic engine to function. I think this is a good compromise. I think we've gotten there through careful, honest debate. I don't think anybody is getting anything they really want out of it, but I think everybody is getting something that they need to make some good decisions here in the future. I don't want to belabor the point, but once we start changing law to punish or to bring part of our citizenry back under control and take control away from local control, we have to stop and take a breath. We have to see if this is truly what this legislative body wants to be known for. Thank you all for listening to me and to my objectives and to my opinions over the last few days. I look forward to more careful debate and sensible conclusions to where we are right now. And I'm proud to be part of

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this body in terms of the cooperation and the change that we're able to make internally when 49 minds come together in support of 1.8 million people in the state of Nebraska. Thank you. [LB81]

PRESIDENT SHEEHY: Thank you, Senator Krist. Senator Council, you're recognized. This is your third time. [LB81]

SENATOR COUNCIL: Thank you, Mr. President. It's my third time and it will be a brief time. I just want to rise and express my appreciation to Senator Cornett for the leadership she has provided in striking a compromise and all of those senators who have worked with Senator Cornett in arriving...what I believe to be a fair, just, and reasonable compromise on this issue. It addresses the concern about establishing state policy with regard to how metropolitan communities interact. It addresses the issue of not burdening a municipality that relied upon current tax policy to set its budget. It addresses the concerns that have been expressed by employers regarding the collection of the tax beyond the extraterritorial jurisdictional limit. I think it is, again as I've stated, a fair, just, and reasonable compromise to move us forward as we look to developing statewide policy on how communities within metropolitan areas or communities that share boundaries address these extraterritorial issues because we can't deny the fact that road usage and repair and maintenance of roads that are used by everyone within a regional area. And I think I'll speak regionally, I support the proposition of establishing some type of regional commissions across the state because, as has been stated before, this is not an issue that's limited just to the Omaha metropolitan area. You have Hastings and Grand Island and other communities where residents cross jurisdictions to work, to shop, and we need to recognize that and move forward in a thoughtful and reasonable manner. And I wholeheartedly endorse the amendment that's been outlined by Senator Cornett, and I would urge my colleagues as well to endorse and adopt that amendment when it's filed because I believe that it can move us forward on LB81, and then be able to direct our attentions to the other very serious issues that are awaiting our deliberation. Thank you very much, colleagues. [LB81]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Harms, you're recognized. [LB81]

SENATOR HARMS: Thank you, Mr. President and colleagues. Mr. President, I'd like to yield my time to Senator Krist if I might. [LB81]

PRESIDENT SHEEHY: Senator Krist, you're yielded 5 minutes. [LB81]

SENATOR KRIST: Thank you, Senator Harms. It is very, very difficult to go through a budget cycle, as you all know, and to depend upon revenue coming in and then have a, I'll use the terminology, big brother come in and change your entire plan from the very

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beginning, particularly when you made good decisions based upon current law and where we were until we started this discussion. I think that this amendment does a couple of things correctly. It allows that budget cycle to continue to a point with a known backstop to which other revenue or other possibilities will be there. But I'm going to go just a little bit different direction. That economic engine we're talking about, it can survive without this money when the economy turns back around and the tax base comes back to where it's supposed to be and we get back to better times. We are going to be making decisions in this body based upon our current debt, as the city has, as all cities have, as all of your constituents have with their private businesses. The forecast is looking better and better. As we get to that point where it's better and better, I think it gives the city of Omaha in this particular case a reasonable amount of time to find another funding source. And if it's not just that city, if it truly is, and I hope you're listening, I really like Sarpy County, I really do. I have a home, a lake property in Cass County. I love the metropolitan area. It gives us all the things that we need. I love driving to Lincoln, except today when the roads are the way they are. This gives us the time, the breath and the space to look down the road and see where we're going. The economics are going to change. The environment is going to change. If we can't have people come into the Lincoln airport or Eppley and the Omaha airport and see from the very beginning a place that they want to move to, that they want to have their family grow, a place of quality education, of one of the lowest unemployment rates in the country, take this message, we will do what it takes to make sure that those roads are good and they will take the time. Now I also mentioned to you that the area...the senators in the Omaha area were going to take the time to talk to Omaha and its administration. I'm hoping that that administration, based upon recent events in Omaha, will be more accessible, that they will listen, that they will hear, and they will understand that what's good for the state can also be the best thing for Omaha as opposed to the other way around. You all know I represent a great deal of northwest Omaha, I believe. And some of those areas are unincorporated, some of them are SIDs. And you all know how I feel about taxation without representation. I think that might be another step to allow those SIDs that are in those municipal areas to actually have a voice. I said very early in this process when you open up this can of worms and you're talking about tax policy reform and taxation... [LB81]

PRESIDENT SHEEHY: One minute. [LB81]

SENATOR KRIST: ...with representation that we would talk about a myriad of things that some of us knew nothing about. And just as when Senator Sullivan introduced a bill last session that taught me about good fences and good neighbors, I hope that you may have a better understanding and I certainly have a better understanding of what it takes to run a city the size of Omaha, but more importantly what it's going to take us to move forward as a community. One point eight million people are trying to look to us, to the leadership to make that happen. This is a good move in the right direction. Thank you, Mr. President. [LB81]

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PRESIDENT SHEEHY: Thank you, Senator Krist. Members wishing to speak on AM14 to LB81: Senator Ken Haar, followed by Senator McCoy, Senator Howard, and Senator Utter. Senator Haar, you're recognized. And this is your third time. [LB81]

SENATOR HAAR: Mr. President, members of the body, I appreciate the discussion. When I interviewed my legislative aide for the first time we talked about opposition. I said, how do you feel when people oppose bills? And we both agreed, and this is the position I was coming from, that opposition usually makes a bill better. And that's what this body is about, 49 people debating issues. And I think it's important that we have public debate, open debate, the things that happen with talking on the side to senators and working out amendments is really important. But the debate we've had here is important, too, and citizens realize that. The other thing again, just to talk a little more about tax policy, is that citizens expect policy...tax policy to be fair and understandable. And one of the kinds of taxes that I think citizens understand, again it's got to be fair, but is the whole taxing in terms of user fees. So I hope to support the amendment that Senator Cornett is talking about. And I hope it will be very understandable as a user fee to the citizens that are going to be charged that tax. I would also encourage whatever this group is that's going to meet to talk about it that we don't consider the other metropolitan areas. And Lincoln is certainly one of those where a lot of people commute in and out of the city. And we're all, as senators, examples of that. And then just quickly on another issue. I've been working on the Keystone Pipeline. We got a call from the state department on Friday saying they had heard about our letter that 21 of us signed, and they hadn't gotten it in the mail yet. So they requested an e-mail so they could get that letter to Senator...or, I'm sorry, to Hillary Clinton, Secretary Clinton. And again, I just want to make the point that in the letter we did not say, stop the pipeline. We said, agreeing with U.S. Senators Johanns and Nelson, that we want to make very sure the pipeline is safe and we encouraged a route that would go around the Sandhills. So that letter is going to get to the State Department, to the very top and that's encouraging. Thank you. [LB81]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator McCoy, you're recognized. [LB81]

SENATOR McCOY: Thank you, Mr. President and members. We've heard the basic tenets of the coming amendment from Senator Cornett that we should have down to us here in a few moments. And as we've talked about this on the mike and off the mike this morning, but really it felt like what needed to happen, and part of this will happen on Select File, is that we really come up with a comprehensive plan on how we address transportation needs in the metro area, not just the city of Omaha, not just the extra taxing zone jurisdiction, the three-mile buffer zone, not just those folks who commute in from Fremont or from Cass County or Saunders County. We need to address it as a metro area because it's truly what we've become. We are a community of a lot of

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communities. And hopefully, we'll be able to put together a plan that those of us that will be here, hopefully, for a number of years into the future will be committed to undertaking and fulfilling that promise to our constituents and to all of you who live outside this area. The coming amendment that you'll see will sunset the extra taxing zone jurisdiction to January 1, 2013. But we'll also, on Select File, as Senator Mello, and Senator Cornett, and Senator Council, and Senator Ashford, and I, and a number of other senators have worked on the last hour and a half is putting together a plan whereby we can make this happen long term. Our budget needs, as we all know, are long-term needs. And as Senator Harms has been so committed to with the planning committee looking at things from a long-term, long-range standpoint, that's the genesis of this amendment that's coming here in a few minutes. And that will be a genesis of what we work on for the next several years putting together a long-range plan. Thank you, Mr. President. [LB81]

PRESIDENT SHEEHY: Thank you, Senator McCoy. Senator Howard, you're recognized. [LB81]

SENATOR HOWARD: Thank you, Mr. President. I offer my time to Senator Ashford. [LB81]

PRESIDENT SHEEHY: Senator Ashford, you're yielded 5 minutes. [LB81]

SENATOR ASHFORD: I told you I'd be back, Mr. Lieutenant Governor. Thanks. I don't know where this amendment is. Maybe it's coming soon. One of the things that I've noticed this morning in the last half hour is the number of people outside the glass desiring to speak to people inside the glass. I think this is a great lesson and it's a great example of how we work these things amongst ourselves. We can think for ourselves. We can make decisions for the state ourselves. We don't need to have constant updated information every five minutes on what somebody thinks or doesn't think outside of this body. So this compromise, this idea does a couple of things. It addresses what Senator McCoy and Senator Mello have addressed, and that is the need for a comprehensive plan that neither Sarpy County nor Douglas County have done a very good job of developing, even though the needs have been out there for several, several years. And I think this is great, great work. It was generated in here. It was generated by thinking together on ideas because it is funding, revenue, taxes are necessitated to some extent by old ways of thinking, old ways of generating services. If we find a new way, a new gov., a new way to govern ourselves that reduces the need for increased spending, that reduces the need for increased taxes, that's how we address taxation effectively. And that is to come up with solutions that is going to...that are going to reduce the need for increased taxes and increased spending. This amendment, this idea brings that concept to the floor in the area of roads construction. It is so, so needed. And I appreciate the discussion we've had about that. But for those outside the glass who think somehow that this bill was not going to pass in its original form, are smoking something. This bill was going to pass in its original form. There were not, let

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me try to say this again, there were not enough votes to stop this bill from passing in its original form. The fact that that was so could have led the Chair of the Revenue Committee, Senator Cornett, to say, I'm not going to talk to you guys about anything. I've got the votes. I've got the votes. And we'll stay here and we'll vote cloture. And we'll go on and vote this bill across General File to Select File, boom, boom, boom, done. But that's not what Senator Cornett did. What Senator Cornett...what she did was she sought out a compromise, she sought out a way to handle this issue that dealt with not all of, certainly, the concerns raised by the city of Omaha but certainly some of those concerns. And most importantly what it did is it put back to the local governments the responsibility to find solutions and bring them to us in an effective manner. There is going to be a sunset on this ETJ wheel tax or wheel fee, use fee... [LB81]

PRESIDENT SHEEHY: One minute. [LB81]

SENATOR ASHFORD: ...of January 1, 2013. That gives the city plenty of time to come up with a plan on revenue. Now I think we should give the cities sales tax authority. I may be the only one that thinks we should give the...I know, I know...oh, no (laugh) I think I am. But that can grow, too, like a wave in the ocean. It can...momentum can increase. And Senator Fischer will someday agree to at least talk to me about it. (Laugh) Maybe not agree to it. But in any event, we're getting the discussion underway on how to deal with the issues of the cities and their needs. But the underlying...the underlying remedy is to find ways to be more efficient in the way we govern at the local level. This starts that discussion as it relates to roads. We need to also start that discussion as it relates to governance and move the ball down the... [LB81]

PRESIDENT SHEEHY: Time, Senator. [LB81]

SENATOR ASHFORD: ...down the court, down the field. Thank you, Mr. Lieutenant Governor. [LB81]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Speaker Flood, you're recognized for an announcement. [LB81]

SPEAKER FLOOD: Thank you, Mr. President. Good morning again. Just a quick note. We're going to discontinue discussion on LB81 at this point this morning. There is another matter to take up that relates to the cancellation of a hearing from the Government Committee we'll proceed to and then adjourn. Again, tomorrow we start at 10:00 a.m., 10:00 a.m. Thank you very much.

PRESIDENT SHEEHY: Thank you, Speaker Flood. Mr. Clerk, you have a motion on your desk.

CLERK: Mr. President, Senator Avery, as Chair of the Government Committee, would

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move to suspend Rule 3, Section 14, to permit the cancellation of a public hearing for gubernatorial appointee on Wednesday, February 2.

PRESIDENT SHEEHY: Senator Avery, you're recognized on your motion for rules suspension.

SENATOR AVERY: Thank you, Mr. President. The reason why we need to do this is that the person who has been nominated for this position has a death in the family and cannot attend the hearing nor can he be available for a conference call, telephone hearing. So, therefore, I respectfully request that this be postponed. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Avery. Are there members requesting to speak on the motion for rules suspension? Seeing none, Senator Avery, you're recognized to close. Senator Avery waives closing. The question before the body is on the motion for rules suspension. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, to suspend the rules and cancel the hearing.

PRESIDENT SHEEHY: The motion is adopted. Mr. Clerk, do you have items for the record?

CLERK: I do, Mr. President. Senator Cook would like to withdraw LB547. That will be laid over. Senator Harms and others offer LR65. That will be laid over. Your Committee on Health, chaired by Senator Campbell, reports LR37 back to the Legislature for further consideration. That's signed by Senator Campbell. Judiciary, chaired by Senator Ashford, reports LB302 to General File, LB94 to General File with amendments, and LB13 indefinitely postponed. Those reports signed by Senator Ashford. Notice of cancellation of hearing from the Government, Military and Veterans Affairs Committee. And other notice of hearings from the Education Committee, the Agriculture Committee, and the Urban Affairs Committee, Mr. President. (Legislative Journal pages 412-415.) [LB547 LR65 LR37 LB302 LB94 LB13]

And finally a priority motion. Senator Howard would move to adjourn the body until Tuesday morning, February 1, at 10:00 a.m.

PRESIDENT SHEEHY: You have heard the motion to adjourn until Tuesday, February 1, at 10:00 a.m. All those in favor say aye. Opposed, nay. We are adjourned.