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Revenue Committee
January 20, 2011

[LB81]

The Committee on Revenue met at 1:30 p.m. on Thursday, January 20, 2011, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB81. Senators present: Abbie Cornett, Chairperson; Dennis Utter, Vice Chairperson; Greg Adams; Deb Fischer; LeRoy Louden; Dave Pankonin; and Pete Pirsch. Senators absent: Galen Hadley.

SENATOR CORNETT: Good afternoon. I am Senator Abbie Cornett from Bellevue; to my left is Vice Chair Senator Dennis Utter from Hastings; Senator Deb Fischer will be joining us, she's currently opening in another committee; to her left is Senator Adams from York; on my far right is Senator Dave Pankonin from Louisville; to his left is Senator Pete Pirsch, Senator LeRoy Louden from Ellsworth; Senator Galen Hadley is excused today. Our research analysts are Steve Moore to my right; Bill Lock, our research analyst, will not be joining us today; Matt Rathje, at my far left, is committee clerk; our pages today are Marilyn Buresh and Amara Meyer. Before we begin the hearings, I would, please, ask everyone to either turn your cell phones to off or vibrate while in the hearing room. Sign-in sheets for testifiers are on the tables by both doors and need to be completed by everyone wishing to testify. If you are testifying on more than one bill, you need to complete a form for each bill you are testifying on. Please print and complete the form prior to coming up to testify. When you do come up to testify, please hand the form to the committee clerk. There are also clipboards in the back of the room to sign in if you do not wish to testify but wish to either indicate your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted on the door, the introducer, followed by the proponents, opponents, and neutral. Only the introducer will be allowed closing remarks. As you begin your testimony, please state your name and spell it for the record. If you have handouts, please bring ten copies for the committee and hand those to the pages and they will distribute them. If you do not have copies, we will make them for you. With that...

SENATOR UTTER: Thank you, Senator Cornett, and good afternoon, ladies and gentlemen. We have just one bill on the agenda today and it's going to be introduced by our Chairman, Senator Cornett. So, Senator Cornett, the floor is yours.

SENATOR CORNETT: (Exhibits 1-11) We're going to wait a moment for a technical...is it working? Okay. Good afternoon, members of the Revenue Committee, and thank you, Senator Utter. I am Abbie Cornett, C-o-r-n-e-t-t, representing the 45th Legislative District. I have introduced LB81, which prohibits Nebraska municipalities from imposing a wheel tax on nonresidents of their cities and villages. I introduced LB81 on behalf of the residents and nonresidents of the state of Nebraska in the interest of, one, regulating interstate commerce within Nebraska and, two, ensuring nondiscriminatory taxation of interstate commerce and foreign commerce by Nebraska municipalities.

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During 2010, Omaha enacted a city ordinance imposing its wheel tax beginning in 2011 on residents and nonresidents of Omaha. Since then it has become clear that the ordinance is not merely a matter of local concern but a serious matter of statewide concern. LB81 is designed to preempt Nebraska's municipalities for indiscriminate use of the statutory authority to impose a wheel tax on nonresidents. I am offering two amendments to the bill to address the concerns of other municipalities in the state. AM14 clarifies the legislative intent of LB81 is to regulate imposing of wheel tax only. AM14 achieves this by striking Sections 2, 3, and 4 of LB81 and by striking certain other language in the bill. AM14 allows all cities and villages to impose a wheel tax on any person, firm, or corporation residing or located within such city or village and within the limits of the cities' or villages' ETJ, extra territorial zoning jurisdiction. LB81 contains the emergency clause and has an operative date effective January 1 of 2011. I urge the body...or urge the committee for a quick enactment of LB81, as amended, in order to avert the serious problems and statewide concerns. Finally, we have received a number of written letters from persons and interest groups for LB81 and the proposed amendments to it. Those letters will be entered into the record of this public hearing. Thank you for your valuable time and attention and consideration on this bill. Thank you. [LB81]

SENATOR UTTER: Thank you, Senator Cornett, for the opening. Does anyone have questions to Senator Cornett? If not, thank you. And we'll proceed with proponents of the bill. Good afternoon. [LB81]

DACIA KRUSE: (Exhibit 12) Good afternoon. Good afternoon, Chairman Cornett and members of the Revenue Committee. My name is Dacia Kruse, spelled D-a-c-i-a K-r-u-s-e, and I'm testifying in support of LB81 on behalf of the Greater Omaha Chamber. I want to thank Senator Cornett for introducing this bill. As you know, last year Omaha passed a wheel tax on individuals who work in Omaha but live elsewhere. I want to provide you a copy of a letter we sent to our city council at the time this issue was being discussed. That outlined several concerns and questions we had regarding this ordinance, including the likelihood it would strain relations with our friends in neighboring counties, and that has clearly happened. We at the Chamber certainly understand the value of our entire metro area working together. Well, we certainly heard from our members at the time this proposal was being discussed. They have been even more vocal since its passage. Some of the feedback we have heard include, number one, as a result of most businesses not having a system in place that is able to deduct individual payrolls for this purpose, identify where each employee lives, and account for how often he or she commutes to Omaha, it is more costly to administer than the amount being collected by some individual businesses. The details of this bill make it almost...number two, the details of this bill make it almost impossible to implement. In fact, we at the Chamber, with our 45 employees, aren't quite sure how to implement this. Number three, while it is clear it is the employer's responsibility to collect this tax, there seems to be a lot of confusion as to whether or not the employer can be held

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liable if the tax doesn't get paid. And four, this tax certainly makes Omaha less competitive in attracting jobs and investment as well as makes businesses in Omaha attractive for poaching. State law requires that the proceeds from this tax would have to be used for street repairs. And while Omaha, like virtually every other community across the state, has road improvement needs, this is not the way to address them. We also cannot afford to go backwards in terms of funding for our local roads, and I appreciate Senator Cornett and her staff being willing to clarifying in the amendment that Omaha can't continue to collect the wheel tax from our ETJ. I urge this committee to take action on this bill quickly and to send it to the full body for debate. Thank you for your time and consideration, and I would certainly be happy to answer any questions you may have. [LB81]

SENATOR UTTER: Questions for Ms. Kruse? Senator Pankonin. [LB81]

SENATOR PANKONIN: Thank you, Senator Utter. Dacia, I'm glad you're here, and I think it's interesting that the Greater Omaha Chamber, which obviously represents Omaha, but also, as you know, communities in Cass County as well were involved in that organization. And it has been a hot topic in our area, because we do have so many people that commute to Omaha for employment. And there's just been a lot of hard feelings. So I appreciate your organization's stand on this, because I do think it's detrimental to how people that are part of the broader metro area look at Omaha, and thank you for bringing this testimony. [LB81]

DACIA KRUSE: You bet. Yes, thank you for your comments. [LB81]

SENATOR UTTER: Any further questions for the testifier? Seeing none, thank you very much for your testimony. [LB81]

JOE KOHOUT: (Exhibit 13) Vice Chairman Utter, members of the Revenue Committee, my name is Joe Kohout, K-o-h-o-u-t, appearing today as registered lobbyist for and on behalf of the United Cities of Sarpy County, which is a coalition of the five mayors of the cities of Bellevue, La Vista, Papillion, Springfield, and Gretna. We appear today in support of LB81. I'm passing out a letter signed by Mayor Kindig, the mayor of the city of La Vista, signing on behalf of those five mayors. I think it's important to note that since the passage of the wheel tax in Omaha, it has been our citizens who have been primarily targeted and contacting those specific cities and those mayors to complain about this tax. And so from the very beginning, our constituency has asked us to take action. We did not. During that period of time, we thought that the discussion was better one to be had by this body and by particularly this committee, because it is an issue of state tax law. And so with that, the mayors feel very strongly that this bill will go far to alleviate those concerns and those hard feelings that go...now go across that county line. So with that, Mr. Chairman, I'll try to answer any questions that you might have. [LB81]

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SENATOR UTTER: Thank you, Mr. Kohout, for your testimony. Are there any questions? Seeing none, thank you very much. [LB81]

JOE KOHOUT: Thank you. [LB81]

SENATOR UTTER: Next testifier, next proponent. [LB81]

DARLEEN TONACK: Thank you, Senator Cornett and the Revenue Committee. My name is Darleen Tonack, D-a-r-l-e-e-n T-o-n-a-c-k. I'm a member of the Douglas County Farm Bureau board and I'm here today representing the Nebraska Farm Bureau Federation and the Farm Bureau policy on this issue. My husband and I reside in Douglas County. We are farmers. We live within the three-mile jurisdiction of the city of Omaha. We are imposed these taxes, and last year I went to register my husband's farm truck. It had been under repair. It was probably going to be thirty days or more so I didn't bother to go get the plates. It wasn't going to be driven. So when it was ready to go, I went to get the plates and I was imposed a \$25 late fee. Unaware that a late fee was given, I was told by the lady there after showing me a newspaper article that the city council imposed a \$25 late fee to anybody that doesn't pay it within four or five days after due date. The little card we get doesn't tell us that. Anyway, we're also charged wheel tax. The only time you can get away from paying wheel tax--if you take a document and get it notarized that it isn't driven within the city within so many limits...it's three times a year, I think it is. You're asking people to validate something that they have no knowledge. They have to trust you and then they have to take the responsibility that they notarize it. I don't believe the tax is fair for the people that live within the three-mile jurisdiction. We cannot vote on these people. To me it represents taxation without representation. Our county representatives cannot help us. They've told us that for years. We didn't pursue this immediately. We really didn't know what avenue to take. Then as we got more involved with Farm Bureau and adding the wheels tax and the late fees, we presented it through that limit. So we adopt the Farm Bureau policy and request your support on the same thing. Thank you for allowing me to testify, and I'd be glad to answer any questions. [LB81]

SENATOR UTTER: Thank you, Ms. Tonack, for coming today and presenting your testimony. Are there any questions? Looks like you're going to get by without any questions, so thank you very much. [LB81]

DARLEEN TONACK: Thank you. [LB81]

SENATOR UTTER: Any further proponents? Welcome. [LB81]

GREGORY BOYLE: (Exhibit 14) Good afternoon. Good afternoon, members of the committee. My name is Gregory Boyle, B-o-y-l-e. I'm here today in support of LB81. A

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major contributing factor to the founders of this nation initially seeking separation from Britain was taxation without representation. The Omaha wheel tax is clearly taxation without representation. I am a resident of Sarpy County and live outside the boundaries of Omaha. I can have no political effect on the governing of Omaha, and yet Omaha has decided that it is entitled to tax residents outside its borders for the privilege of working and commuting within its borders. Some will argue that this is a voluntary tax like a sales tax. They may naively say, you could choose to move from the city or change your job. While I can easily decide to eat at a given restaurant or purchase a specific item that has an attached sales tax, in this economy I cannot simply leave a current employment or give up a home. Make no mistake about it, if this type of taxation is allowed to stand, it will spread across the state. The economy will pressure an ever increasing number of cities to find sources of revenue to support their ever growing budgets. What happens when small towns that lie in the path of football fans traveling from Omaha to Lincoln decide that those fans need to pay a tax for the wear and tear on streets and bridges in their counties and jurisdictions? The elections of November were a message to elected officials that they need to start doing what is good and right for their constituents and not what they can simply get away with. The recall of Omaha's mayor stems in great part from overspending, an out-of-control budget, and the type of taxation that LB81 is intended to protect Nebraska's citizens from. It is impossible to enforce this type of taxation equally. The circumstances of various commuters entering a municipality vary widely. While one may travel to the city and just work on the edge of town, another one may every day travel to the center of that city, widely using the streets. What about those who carpool? The driver is the only one using the streets, but all the passengers, who just simply ride in that car but are employed in Omaha, have to pay the tax. You might expect this kind of legislative extortion from New York, Michigan, or California. Will this state's Legislature allow this type of legislation to stand and spread across the state? I pray not. I ask you to please support LB81. Thank you for your time and consideration. [LB81]

SENATOR UTTER: Thank you, Mr. Boyle, for your testimony. Any questions for Mr. Boyle? Seeing none, thank you very much. [LB81]

GREGORY BOYLE: Thank you. [LB81]

SENATOR UTTER: Are there any further proponents? Welcome. [LB81]

VAL NELSON: Good afternoon. Vice Chairman Utter and Senators of the committee, my name is Val Nelson, spelled V-a-l, N-e-l-s-o-n, and I'm here to testify in favor of LB81. I appreciate the work that Senator Cornett has put in this bill. I think it's very well written, and I believe she has what we need in the state of Nebraska to prevent this travesty of a wheel tax from being passed. I'm here this morning as a...excuse me, this afternoon, I'm a citizen of the city of Omaha. I live within the city limits, and I'm not going to be assessed this fee like I see so many of my friends who live outside the city. I have

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with me a letter--and unfortunately the senator's aide has the copies of the letter at this time, so...okay. So, I don't know, would it be appropriate for me to go ahead and read this letter to you at this time? [LB81]

SENATOR UTTER: Absolutely. And then the pages will make a copy of it. [LB81]

VAL NELSON: All right. Thank you. I will preface the letter by saying this was written by an assistant manager who works at the Old Country Buffet restaurant in Omaha. She lives in Council Bluffs, Iowa, and commutes every day. She would also be victim to this tax, as I understand it. And so I begin: Dear members of the Nebraska legislative committee. I'm writing to you about LB81. My name is Amanda Thompson and I am a resident of Council Bluffs, Iowa, but I work in Omaha, Nebraska. I work at Old Country Buffet, and I support the community of Omaha by purchasing almost 98 percent or more of all the things I need, including gas, groceries, car repairs, and everything else in between. We are in a struggling economy already and to add a tax to nonresidents unfairly adds yet another burden. The people can't afford it. It is truly unfair of the mayor to ask nonresidents to pay for the mayor's problems, when he should just reduce spending. And how can you fairly tax me when I don't even live here? That would mean you would be able to tax everyone that drove through Omaha going somewhere else as well. This is taxation without representation, completely unfair. I am already struggling to make ends meet with less hours at my job due to Mayor Suttle's 2.5 percent extra tax...excuse me, is raking in the money, the city is raking in the money, but we are not, and our clientele can't afford it either, so they quit coming. I get those comments every day. Please don't let this law, referring to the wheel tax, get passed, as it will just add to our daily economic struggle. Fifty dollars to someone who already can't make ends meet is a large amount to me. Signed, Amanda Thompson, Council Bluffs, Iowa. And the committee will receive copies of that letter. I've also submitted a letter, a copy of a letter, to the senator's aide that was printed in the World-Herald in early October in support of Senator Cornett's bill, and I assume you'll be getting those as well. One other issue I would like to point out, and it's been touched upon, but I am originally from western Nebraska, Cheyenne County, the little town of Potter, which is next to Sidney. I grew up on a farm there, and to this day my brother still lives on the farm and works there. Well, as Omaha goes, so goes the rest of the state. We've seen this with the city sales tax. What happens if Sidney decides to impose a wheel tax now on everybody who has to come into Sidney to do business? I mean, what if they decide to annex the entire county as part of, you know, their tax base or whatever and they want to extend a wheel tax on, say, farmers who don't live in the city but yet go into the city to do their business? You have the government offices there, you have the courthouse, you have the...the name escapes me of the governmental regulators for the land usage and so forth there, but there's a lot of business that has to be transacted in the town. What's to stop, you know, a municipality like Sidney from imposing a wheel tax on the farmers? You can't just pick up and go somewhere else and, you know, get a job somewhere else. I'm sure you will hear some people equate this wheel tax to the city sales and use

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tax. Well, it's one thing to voluntarily go into a municipality and do business there. I come to Lincoln to do business, and if I go to a restaurant I expect to pay whatever taxes the city of Lincoln has imposed. But if I have a job in Lincoln, I just can't pick up and go get another job somewhere else, especially in this economy, where unemployment is so high right now. It's very unfair to impose such a tax on nonresidents of a municipality. You're going to hear the phrase "taxation without representation" kicked around a lot. Please don't let that become a cliché or a buzzword. Please give it the weight that it duly deserves. I thank you for your time, and I'll be happy to entertain any questions you have. [LB81]

SENATOR UTTER: Thank you, Mr. Nelson. Any questions of Mr. Nelson? Senator Louden. [LB81]

SENATOR LOUDEN: Yes, thank you, Senator Utter. Have you had a chance to look at the amendments that have been brought forwards to put in this bill, is that...? [LB81]

VAL NELSON: I have not at this point. [LB81]

SENATOR LOUDEN: Okay. And I was wondering if that made much difference or not. It didn't change the bill that much, but it takes a lot of the wording out of it, and I was...okay, thank you. [LB81]

VAL NELSON: Um-hum. Yeah, sorry. Thank you. [LB81]

SENATOR UTTER: Are there other questions? Seeing none, thank you for your testimony. [LB81]

VAL NELSON: Thank you, gentlemen and ladies. [LB81]

SENATOR UTTER: Do we have further proponents? Seeing none. We will proceed with opponents. Just as a matter of curiosity, can I see a show of hands of those who will be opposing this bill? Thank you. Good afternoon. Welcome. [LB81]

TOM MUMGAARD: Good afternoon, members of the committee. My name is Tom Mumgaard, I'm a deputy city attorney for the city of Omaha. My name is spelled M-u-m-g-a-a-r-d. As you well know, as originally introduced, this bill really addresses three types of revenue sources that the city of Omaha has made use of for many, many years. That's license fees, occupation taxes, and vehicle registration fees. Nebraska law has given the city of Omaha and many other cities these revenue sources for over 100 years. They're a longstanding part of the tax structure and the revenue structure of many cities in Nebraska. They have become important revenue sources for Omaha in our effort to diversify our tax base and not rely upon property taxes solely. And the finance director will testify a little bit later as to how important they are to us. Throughout

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that 100-plus years, the law has never drawn any distinction in these revenue sources based on where a person lives. That's because these sources aren't in any way tied to property ownership or residential nature or anything dealing with residences, such as property taxes would. I can certainly understand the idea that if it's a tax or a fee that's based upon where you reside, that should be limited to those people who reside within that taxing entity. But these are instead user fees that are tied to the benefit that the person receives and the expenses they cause, not to something linked at all to residential, where you live. As those amendments show--that this is really a question about the new commuter wheel fee. I helped write that, and I'd be glad to answer any of the technical questions about how it works. But what I really want to talk about today is bringing the focus to what it is. It's a registration fee. It's a user fee. It's a very true user fee. It's not in any way a tax. The only people who pay that fee are the people who use the roads in Omaha, and that fee only pays for those roads. It's dedicated by law solely to the maintenance and construction of those roads. That's the same principle that the state uses when they impose gas taxes on nonresidents of this state, that the people who use the roads pay for the roads. In Nebraska we do it through our gas tax. It's the same principle that many other cities and many other states use with toll roads. And even here in this state, it's the same principle that's used to pay for the bridge in Bellevue, that all users of that bridge have to pay a toll to cross that bridge, regardless of where they live. I don't live in Bellevue. I've paid that toll many times. Omaha's street expenses have no relation at all to where the street users live. We follow the principle that if you use the streets regularly, you cause the expense, and you should help pay for that expense. This has been a method Omaha has used to pay for streets for over 100 years. During that time, people who don't live in Omaha basically have been getting free use of the streets, even though they contribute to the expense. Now, Omaha in the past has been able to absorb that and welcome those people to come to work every day. But with dwindling resources and the need to diversify the tax base, it becomes harder and harder to pay those costs. And it seems only fair to the citizens of Omaha that the fees to pay those costs not be limited by the city limits. The city limits don't determine who causes the need for street construction or street repair, and those city limits shouldn't determine who pays for the expenses. All users of the streets have the same interest in having streets in Omaha in good repair, regardless of where they live. So all users, in fair public policy, should help pay for them. If this bill passes, we will have a contrary situation, where the only people that have to pay for the streets in Omaha are the people, the taxpayers, of Omaha. We will split out to unequal classes of people, of users of those streets. We will not be treating all users fairly. LB81, I think, is just contrary to the user fee principles that underlie many, many revenue sources throughout Nebraska. And there's really no proper reason why nonresidents of Omaha should continue, in these economic times, to get free use of the streets at the cost of the taxpayers of Omaha any more than they should--nonresidents should be, by law, permitted to get free use of any other service that the city of Omaha taxpayers pay for. So Omaha encourages you not to create a public policy that puts into law the idea that some regular users of streets get to drive them for free while others must pay more than

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their fair share. And that's what this bill does. I'd welcome any questions. [LB81]

SENATOR UTTER: Thank you for your testimony, Mr. Mumgaard. Any questions of Mr. Mumgaard? Senator Pankonin. [LB81]

SENATOR PANKONIN: Thank you, Senator Utter. Mr. Mumgaard, appreciate your testimony and I guess I'm just trying to think from an overall tax policy situation. I live in Louisville, Cass County, and if I want to go to Omaha to go to a movie and go out to eat, should I pay a user-fee tax on the roads? [LB81]

TOM MUMGAARD: Well, as a...okay, as a technical point, I'll point out this. The Omaha commuter wheel fee does not attach to that kind of activity. We welcome people coming into Omaha. That's a visitor-type situation. It only attaches to people who are coming in, using the streets to go to their work regularly, to get economic benefit for themselves. So if you want to come to Omaha and shop, go to a movie, we welcome you. We won't charge you. Let me give you an example. If my relatives from out of town come to visit me for a couple of days, I will buy the groceries. I will feed them. I will take care of them and be their host. If they want to stay for a month, I'm probably going to ask them because of the expense that they're now causing me, if they want to stay for a month, I'm going to ask them to help pay for the groceries. That's the concept behind the Omaha commuter wheel fee. [LB81]

SENATOR PANKONIN: But, theoretically, if we take that to a further degree, my community of Louisville has Ash Grove Cement Plant, and there are people from Omaha that work at that plant. So, you know, are we going to have that type of patchwork where every community has people that commute to work? And I would argue that those people that commute to work to Omaha don't have lunch there, besides their employment that is part of the economic activity. You know, as a sideline, they maybe eat there, they shop there, they do other things besides work there. I would guess that would be true. I think you would probably agree. But I think if we take this to another degree, then I think every community--every road would be a toll road, everything could be...this gets really unwieldy. [LB81]

TOM MUMGAARD: Well, it might get unwieldy. I would suggest that it's restricted by practicalities. That the number of people who commute from Omaha to Louisville may not be enough that it's really practical for Louisville to try to capture revenue from them. That's not the situation with Omaha. Omaha has a very significant proportion that come from outside. We're the only city in the state that faced that situation. I would suggest that the practicalities--the difficulty that you heard the Chamber of Commerce talking about in trying to set up this system is something that will keep it from spreading beyond the system...beyond, basically, the metropolitan area, where it makes some sense. You get beyond, then it doesn't. With respect to you raise sales tax, yes, obviously people who come to work in Omaha from outside of Omaha spend money there, but so do the

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people who live in Omaha. So really what we're talking about is expenses that are caused by both classes of people, but payments that are not being made by both classes of people. So the sales tax analogy, I think, breaks down because you really...people outside of Omaha really are not contributing to the sales tax base any more than the residents of Omaha are, but yet there is this missing segment when you come to how do you pay for the streets. [LB81]

SENATOR UTTER: Senator Pirsch. [LB81]

SENATOR PIRSCH: Yes, Mr. Mumgaard, could you...do you have the data to tell us either in terms of raw numbers of individuals who work in Omaha who live in this...who have this situation, or as a percentage of all workers in the city; can you... [LB81]

TOM MUMGAARD: We have those numbers, and I'm going to defer to the next witness, the finance director. They don't let me do numbers, so I'll let the finance director do that. [LB81]

SENATOR PIRSCH: Thank you. [LB81]

SENATOR UTTER: Other questions? Senator Adams. [LB81]

SENATOR ADAMS: Thank you, Senator Utter. I'm not sure yet what question I want to ask. I'm just going to start thinking out loud. That usually gets me in a little trouble, and maybe as the questions evolve, you'll answer them for me. Occupation tax. You referred to that in the introduction. And property tax, occupation tax, sales tax that cities have to generate revenue. Am I right in thinking that a city's use of occupation tax is to recover an expense that a company's--a city's allowance for someone to use property, their property, right of way, whatever it might be... [LB81]

TOM MUMGAARD: Well, okay, I'll draw the distinction. Yes, occupation taxes are different in several ways from this commuter wheel fee. Occupation taxes are general revenue producers. They go to the general fund and they pay for the general expenses of the city. Conceptually, you can think of it, I think, that the occupation tax paid by somebody who is doing business in Omaha goes to help pay for those things that benefit that business. Something simple, like police protection. When a store or a restaurant pays an occupation tax, part of that money might be used to pay for the police officer that responds to the burglary at that store. So it's a general sharing of expenses because we all benefit from what it pays for, as opposed to this wheel...vehicle registration fee. [LB81]

SENATOR ADAMS: Right. See, I was looking at the occupation taxes a little bit different. And correct me if I'm wrong. So City A imposes an occupation tax on the telecommunications provider because the telecommunications provider is burying cable

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in the city's right of way. The city may impose an occupation tax on...maybe it's a business or a type of business or an agency because they want to recover the cost of what the building inspector may incur to go out and inspect these people. Is that...am I thinking right? [LB81]

TOM MUMGAARD: That's--that's exactly true. [LB81]

SENATOR ADAMS: Okay. So in all of those cases, it may end up in the general fund, but the city's rationale for the occupation tax is because we're incurring an expense or we're allowing an outsider to use our city street or street right of way and we want to recover something from that use. The privilege of using our right of way, if you will. [LB81]

TOM MUMGAARD: Right. Yeah, there's...I mean, this bill as originally drafted really mixes several concepts. You know, the occupation tax is a license fee or, as you described it, more of a general expense type of thing. There's real no direct link between, you know, what you're doing and what services you receive, you recover, or you're paying for. With the vehicle registration fee, however, there is by law a very direct link that the only people who will pay this are those people who are regularly coming into Omaha for their own economic benefit, using the streets, causing deterioration, and the only thing we can spend this money on is to repair that deterioration or create new streets. So there's a very tight link between who is paying and what they're getting out of it, which is slightly different than the general taxes, occupation taxes, etcetera... [LB81]

SENATOR ADAMS: Um-hum. [LB81]

TOM MUMGAARD: ...which certainly, I think, adds to the fairness, that regardless of where you live, if you're getting a benefit from activity that you're engaged in, it's only fair that you pay for it. I think there's a rule of life. You get what you pay for. You break it, you pay for it. And that's kind of the concepts that we're dealing with here, that when you, regardless of where you come from in the morning, if you come into Omaha on a regular basis, and I stress regular basis, then you're causing the same deterioration as the guy who lives down the street in Omaha, and you should pay for it too. It's just terribly unfair to put the burden completely on the people who happen to live, mostly by happenstance, within the city limits of Omaha. [LB81]

SENATOR ADAMS: Okay, then correct me again if my thinking is wrong on this. I see your connection. If I'm going to drive on your street, then maybe I should help you repair it. I'm wondering, are most commuters coming into Omaha on the interstate? [LB81]

TOM MUMGAARD: Oh, hard to tell. As a practical matter, if we could put a toll booth at every entrance to Omaha, I guess that would be the traditional way of raising these

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monies. I don't know. [LB81]

SENATOR ADAMS: I guess what I'm wondering, if more are coming in on the interstate, then where's Omaha's obligation there on the interstate? [LB81]

TOM MUMGAARD: Well, I guess we have to look at it in a more general sense, that there is not a single business or employment source that is located solely on the interstate. That at some point they have to get off the interstate and drive on a city street, you know, and how far they drive, you know, that gets to, well, we can't really address specifics with people, so we have to address generalities. And that's why we've just simply said, you know, if you come into town for work more than 30 days in a calendar year, we are going to presume that you are a user of our streets. Just like the three-mile jurisdiction people. If you live within three miles of Omaha, we're going to presume you're a user of the streets. It's just a way of categorizing who is or who isn't a user. And the employment base, I mean, actually, the employment situation is just simply the collection process, and if we could...you know, if the Legislature could come up with a better collection process we'd be glad to hear about it, because we don't want...I mean, we sympathize with the Chamber of Commerce complaints. We don't really want the employers in the collection process, but because that's the only connection between Omaha and the nonresidents, we've had to put the employers there. If there's a better way, we'd be glad to listen to it. You know, so...and the thirty-day limit, well, okay, you get to come into Omaha occasionally without paying. It only gets triggered when you've been doing it for thirty days. And that's the same standard that's applied to the citizens of Omaha. There's no discrimination going on here, because you don't have to pay a wheel tax in Omaha, even if you live there, if you don't drive your car more than thirty days, which is true also of the three-mile jurisdiction people. So, actually, if you adopt this bill, you're going to end up with a discriminatory situation where people who live in Omaha are paying for the streets, but the people who are just using them equally in the same amount but happen to live across the city limits don't pay for the streets. [LB81]

SENATOR UTTER: Senator Pankonin. [LB81]

SENATOR PANKONIN: Thank you, Senator Utter. Sir, earlier I think you made a statement when I was using, and I used too small of a community, my home community of Louisville as an example, but you said, correct me if I'm wrong, but you think the situation is mainly unique to Omaha. [LB81]

TOM MUMGAARD: Yes, I think it is. [LB81]

SENATOR PANKONIN: Okay. So what would be the difference? I commute from Louisville into Lincoln. And Lincoln...and Senator Adams has people in his district that live in Seward and York, and my guess is a lot of those people commute to Lincoln. So

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why would Omaha's situation be different from Lincoln's? [LB81]

TOM MUMGAARD: Okay, let me explain. First, it's different in quantity. The metro area has such a significant number of people living outside the city limits but yet right down the street from Omaha that the number of commuters in the Omaha metro area is so much significantly higher than the situations you've mentioned. Yeah, they occur, but the numbers are different. Secondly, everywhere else in the state, if you have development that occurs outside your city limits, you can capture that tax base by annexation. Omaha cannot do that, principally on its south side. Omaha is prohibited by law from annexing into Sarpy County. So Bellevue, Papillion, Gretna, the very...the growing population bases of northern Sarpy County are, by law, out of reach of Omaha incorporating them into their tax base. That doesn't exist anywhere else in the state of Nebraska. Plus, we've got the Iowa situation, which--of course, you get to some of the border towns and, yeah, you could have people coming across Kansas and Wyoming, South Dakota into a Nebraska town to work. But again, the numbers aren't the same as the numbers that we have coming from Iowa to Omaha. We're glad to have them there. They add to our city, but if they're going to cause us expense, just like my out-of-town relatives eating my food, if they're going to cause me an expense, at some point they've got to help pay. [LB81]

SENATOR PANKONIN: I think, though, as a general tax policy, the town of Fremont, my hunch is, has, you know, percentagewise I don't know, but I bet a lot of people from Arlington and Valley and other communities around Fremont commute into Fremont for employment. And so I don't know where you draw the line in this type of policy. You know, the assertion that Omaha is different I don't think is true. I think Lincoln could impose this type of tax if this policy stands, very easily. And I'd be one of those that would be subject to it as well. And I just think, you take this policy, you can take it anywhere and it's not right, it's not fair... [LB81]

TOM MUMGAARD: Well, if you... [LB81]

SENATOR PANKONIN: ...but that's my opinion. [LB81]

TOM MUMGAARD: No--and I understand and I'm going to partially agree with you. From a logical standpoint, there are several lines that can be drawn. We've drawn a very bright line, thirty days. We don't care how far you have to drive to come to Omaha. I mean, sure, you could draw lines like we did with the three-mile jurisdiction--that if you live beyond thirty-five miles, presume you're going to use the streets less than somebody who lives five miles from Omaha. That line could be drawn. You could draw a line at a differential fee, that people outside of Omaha would only pay three-fourths of what people inside of Omaha could. There are all sorts of lines that could be drawn there, you know, and maybe as time goes on even Omaha will decide to modify their ordinance and draw different lines. Right now, it's just simply the city limits is the line.

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And that's...I can't tell you that's the most fair. It's the most workable at the moment.
[LB81]

SENATOR UTTER: Further questions? Senator Louden. [LB81]

SENATOR LOUDEN: Yes, thank you, Senator Utter. Well, yeah, I've got a bunch of questions to ask here; now I've got to remember and see if I can remember them all. Did I understand you said that you're gearing this on people that just work there? Or there's something in some, here, this territorial area or extraterritorial zoning jurisdiction or something. Now, which is it? Are you going to be so--a distance from your city limits you can have this tax, or is it people that work there and if they draw wages in that town then they have to pay that tax? [LB81]

TOM MUMGAARD: And that's a good question. I do need to clarify. We really have three categories of people who have to pay the vehicle registration fee. The first category is the people who live inside of Omaha. As I've said, they've been paying this ever since...basically ever since there has been motorized vehicles in Omaha. The second category is the people who are in that three-mile jurisdiction who don't live in Omaha but, you know, for all physical purposes, you don't know the difference. You drive across the city limits, you don't know it because there's houses here, houses there. The test that we're using is, how do you identify users of the street? We can...we presume that if you're inside the city and you're registering vehicles, you're using the streets. If you don't have a vehicle, you use public transportation, no, you're not paying this. But if you register a vehicle and you live inside Omaha, we presume you're using the streets. About four years ago, four or five years ago, we then expanded it, again in fairness to the people who are inside Omaha, saying, well, there's this other category of people who are also using the streets, and that's the three-mile people. And that's presumed they're using the streets simply because of proximity. That's been in force now three, four, or five years. It was just this past August that we then created the third category, saying, well, we recognize that there are these other people that are beyond the three miles, or are certainly, you know, two blocks away but in Sarpy County, and the presumption applies to them, too, that if you're that close to Omaha, you're probably using the streets. And then we went the next step to even make it more fair. We said, well, but we're only going to say, we're going to presume you're using the streets if you're driving a vehicle in to work in Omaha more than thirty days. So that we've narrowed it down as much as we can to people who are very likely using the Omaha streets on a regular basis and are doing it for their own economic benefit. So we've tried to pull this third category of people down as close as we can, to, again, make it fair. So, but, yeah, I did mention more broadly. Keep in mind, we got the three categories: residence, three-mile residence, and others. [LB81]

SENATOR LOUDEN: Okay. Now the "and others," that's--my understanding is they work there. Now what about people in Iowa, if they drive over, are they going to pay it?

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[LB81]

TOM MUMGAARD: Yes. [LB81]

SENATOR LOUDEN: Okay. And then if people, oh, say, lived 45 or 100 miles away and drive in there and work, they would pay it? [LB81]

TOM MUMGAARD: Yeah, again, that's a matter of practicality. We know that there are people that drive from Lincoln to work in Omaha and drive many miles and do it... [LB81]

SENATOR LOUDEN: Well, I mean, they'll drive in, stay all week and work, and then they'll still pay that wheel tax? [LB81]

TOM MUMGAARD: Yeah. You know, and again, I said, yeah, we can draw a line, a mileage line. We haven't done it. Numbers just don't seem to... [LB81]

SENATOR LOUDEN: Then you have to...every employer then will have to go through his employees and find out how far they live. Now the next question is, what about students that live down there? And now if they're students, I presume you can probably tell me they won't be charged, but if the students come down there and working their way through college, then where do they fit into that category? [LB81]

TOM MUMGAARD: Okay. I'm glad you asked that, because that is another source of misinformation that's out there. Students who reside in Omaha or work in Omaha under this new ordinance, simply because they've come there to be a student, do not have to pay. So if you live in Chicago and you come to Omaha and you want to leave your...to be a student at Creighton University and you leave your registration of your vehicle in Chicago, you continue to register in Illinois, you don't have to pay any wheel tax. Students are just generally exempted from all three categories, no matter where you live. Also military personnel who are there because they've been put there under orders--they don't have to pay. They're exempted. That's true of all three categories. [LB81]

SENATOR LOUDEN: Now, on your students, do they have to be taking a certain number of hours or courses in order to qualify, or how do you qualify students? [LB81]

TOM MUMGAARD: Well, that's more of a practical thing again. Yes, we try to restrict that to full-time students, generally twelve hours. If somebody can come in and show that they are what would otherwise be a full-time student but they have less than that, why, we have some flexibility there. That's an enforcement thing, but, yes, most of them can...same thing as a previous witness testified about the thirty days. Well, if you live...you know, if you're in any of these categories, the three-mile people or the

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employees, and you can show that you don't come into town more than thirty days a year with your car, you don't have to pay this. And that's mostly on a trust basis--that, yeah, if you're willing to say under oath that you don't use the streets more than thirty days a year, you don't have to pay it. [LB81]

SENATOR LOUDEN: Provided you're outside that three-mile zone. [LB81]

TOM MUMGAARD True. If you're inside, we're going to assume...you know, if you have a car and you drive it back and forth to your house inside the city, you're using the streets. [LB81]

SENATOR LOUDEN: You're going to pay it anyway. Now, say this is all--works like you envision it. Lincoln can do the same thing then, couldn't they? If it was in statutes, Lincoln could do the same thing? [LB81]

TOM MUMGAARD: If it's in the statutes. I'm not...I don't know for sure, but I'm not sure that this vehicle registration fee is in all of the...the statutes for all the cities. [LB81]

SENATOR LOUDEN: Because Lincoln right now charges a wheel tax... [LB81]

TOM MUMGAARD: You know, and... [LB81]

SENATOR LOUDEN: ...I think, when they register their cars. I think; I don't have anything here. [LB81]

TOM MUMGAARD: See, and I don't know either. I would say if it's part of the revenue authority in the city, I'd say, yeah, they could do it. It would be limited by the practicalities of is it worth it. [LB81]

SENATOR LOUDEN: Yeah. Now, on this thirty-day deal or something like that, what about all these state senators that come down here for six months at a time? Are we going to pay our occupation tax and some of that like that then? [LB81]

TOM MUMGAARD: Well, we really haven't defined the word "work," so I don't know if that's going to catch you or not. (Laughter) But on the other hand... [LB81]

SENATOR LOUDEN: Yeah. You better define it pretty quick, because if you say yes they'll pay it, this won't...you know, your chances--you're done, I guess. [LB81]

TOM MUMGAARD: No. (Laugh) Well, I'll leave that to Lincoln to figure out what they do with the state senators that come to Lincoln and work very hard for several months a year. [LB81]

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SENATOR LOUDEN: But, I mean, it's got to be done statewide. Once you...once something goes into the books, why, anybody in the state can use that. [LB81]

TOM MUMGAARD: Well, I wouldn't think so. You know, as I say, the vehicle registration language that I know of is in the statutes that apply to Omaha, and I don't see it in the other statutes. And I don't know why you couldn't treat a metropolitan class city differently than the others. And certainly, as I explained, I think Omaha does have the unique situation because of the county line and annexation questions and the fact that we have suburbs that other people don't have. Yeah, I would say you could treat Omaha differently, and if you wanted to write a law that said only Omaha can do this so that you keep it from spreading, we wouldn't have any complaint on that at all. [LB81]

SENATOR LOUDEN: Well, I won't touch that. Thank you. [LB81]

TOM MUMGAARD: Thank you. [LB81]

SENATOR UTTER: Any further questions? Senator Pirsch. [LB81]

SENATOR PIRSCH: Yes, Mr. Mumgaard, and this might be slightly off topic, but since you're an experienced attorney in the area, I thought I might ask you this. You identified three categories, the "in city," the extraterritorial jurisdiction, and then in your third category you include all others working in the city. Senator Louden asked a question, which--in his mind maybe there's four categories, including where you divide up the third category of all others into all other in-state or all others from other states. The question is, I wonder if you could comment as to the legalities of treating, you know, that third category, some of which are in state, some of which are out of states into...can you treat them different? [LB81]

TOM MUMGAARD: Well, I don't think the state line makes a lot of difference. I've heard people talk about interstate commerce and stuff. I've taken a look at some of that and I'm not convinced that that's a hurdle at all we have to get over. If you did divide up that category of employees from outside, you'd have to do it on some sort of a rational basis, keeping in mind what we're really aiming for is defining who is or is not a user, a regular user. And so if you drew that line so that it was based upon who is or who isn't likely to be a regular user, I think it would withstand any legal challenge. If you drew it arbitrarily, you might have a problem. [LB81]

SENATOR UTTER: Other questions? Senator Fischer, welcome. [LB81]

SENATOR FISCHER: Thank you, Senator Utter. I apologize for being late. I had to introduce a bill in front of the Health Committee, and I also apologize if you've already addressed some of these questions or previous testifiers have. But just to get myself up to speed on this, what I've been hearing, I guess, my comment would first be that all of

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us are facing budget constraints. And we're all looking for more revenue. And I especially am looking for revenue for roads, so I can appreciate your concerns there. We don't want to introduce taxes and we certainly don't want to introduce tax increase on our voters. That's what this seems to me is what is happening here. You used the term that in order for this to work, some of it is going to have to be on a trust basis. So are we going to see any kind of accountability with this new tax? I don't know what... [LB81]

TOM MUMGAARD: Well... [LB81]

SENATOR FISCHER: ...you're calling it. Are we going to see accountability with it? Are we going to encourage people to find ways to avoid it? How... [LB81]

TOM MUMGAARD: All of those... [LB81]

SENATOR FISCHER: I see a lot of concerns with this, and the main one is, how are you going to make it work? [LB81]

TOM MUMGAARD: Well, you know, I've had to work for several months in trying to make it work, so I'm on the same page with you on that one. The fact that we have to use employers as the collection agency is a very difficult process. And so we... [LB81]

SENATOR FISCHER: Are you going to pay them? Do they receive a certain percentage, then, for that extra work you're putting on employers? [LB81]

TOM MUMGAARD: Yes. Yes. They get to receive 4 percent of what they collect and submit. You know, an employer is really the--it was our last resort--collection agency. Because everybody else, they collect--they pay through the Douglas County Treasurer when they register their car. Very simple system. It's just another line on your registration bill. We don't have that ability for people who register their cars in other counties or other states. If you want to give us that ability, it might be helpful. (Laugh) [LB81]

SENATOR FISCHER: I'm scared to, because you might tax me in Valentine, then, too. [LB81]

TOM MUMGAARD: (Laugh) Well, but--so the only link we could find was the employer. And it's unfortunate that that's the link, but it's the only one we could find. If anybody could come up with a better system, we would be glad to examine it. As far as, you know...let me go back to the fairness. We're not picking on people who live outside the city. We're simply trying to be fair to the people who live inside the city--that they have been paying for these roads for years. They actually have an increase now. This year we had to go from \$35 to \$50 because of, as you well know, it's becoming tremendously

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expensive to keep the roads up. Last winter gave us an example. What happens when you don't keep the roads up? You got people whose cars are being ruined because they're hitting potholes. We don't want that any more than they do. So we're looking for ways to solve a problem, not just to generate revenue. And solving that problem seemed to be that we needed to expand the tax base, as commonly said, to be more fair to the people who are inside the city, because the numbers of people who are coming from outside, helping create potholes but not paying for them, was getting really big. So as a matter of fairness, we needed to implement this just so that the cost to the people inside the city didn't go skyrocketing. [LB81]

SENATOR FISCHER: What percentage of the workers live outside of Omaha? [LB81]

TOM MUMGAARD: And I'm going to leave that to the finance director. They've got better information than I do. [LB81]

SENATOR FISCHER: Do you think...do you think this proposal that you have shows that Omaha is a welcoming community and is trying to build business, develop business, encourage people to live in the area and work in Omaha? Don't you think this might cause business to flee Omaha? [LB81]

TOM MUMGAARD: Let me work in reverse. Certainly, this seems to give an advantage to people who want to establish a business outside of Omaha. To that respect it's to Omaha's disadvantage to implement this. That's on the balance here. On the other hand, is this welcoming and is this good for Omaha? Nobody who drives in Omaha, regardless of where they live, wants bad roads. That pothole you hit that ruins your car and costs you thousands of dollars to repair doesn't care where you live. If...we saw last year, letters to the editor was a very good indicator. People got very unhappy when they couldn't drive the streets of Omaha without fear of damaging their cars. Now that's... [LB81]

SENATOR FISCHER: Believe me, I hear that across the state of Nebraska. [LB81]

TOM MUMGAARD: That's damaging to the image and to welcoming people into Omaha. So, yes, we are looking to spread the burden, spread the cost, get additional revenue that will be dedicated directly to streets, so that when people come to Omaha to shop, to come to work, or to whatever, they don't run into that problem. We hope that that is taken into account by businesses. That they...they don't want to locate a business in a decrepit town with terrible streets. So they want those streets to be good too. We all want to work together to create an environment so that, you know, we don't...and we don't want to divert money from other sources to go to the streets and have Omaha tumble over the brink. That's not good for business, whether it's in Sarpy County or whether it's in Omaha. So we all want to create an environment where everybody is helping share the cost and we're creating things that benefits everybody

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and we all grow together with that. [LB81]

SENATOR FISCHER: How do you decide where the boundaries are? Why don't...why don't we just have these little patchworks all over the state of Nebraska? I'm going to let Senator Pankonin have one, but then he can fight with Lincoln and probably Omaha on what those boundaries are. You know, I'm from Valentine and from a really big area, so I could probably scoop up a lot of stuff. You know, how do we rationally address this without basically turning the state of Nebraska into city-states? [LB81]

TOM MUMGAARD: Well, that's where Omaha has the unique situation in that our city limits are determined basically in two ways. One, annexation. That's an economic issue. Can...you know, are the expenses of the area we're bringing into the city offset by the revenue that it generates? It's totally economic. That's basically what's happening on the north and west side of Omaha as to where the city limits are. The south side of Omaha, it's a matter of law; Harrison Street, the county line, is where we stop. That's longstanding Nebraska law. That's how we determine the boundaries. And Omaha largely doesn't have any control over that. Unlike a lot of other cities, well, I mean, who can...who don't have that Harrison Street county line problem... [LB81]

SENATOR FISCHER: Who is on the other side of Harrison Street? [LB81]

TOM MUMGAARD: Sarpy County, very nice county. [LB81]

SENATOR FISCHER: And what city? [LB81]

TOM MUMGAARD: Oh, we have basically several cities that bump up against us. One would be Bellevue, La Vista; Papillion is just about a mile down the road. Gretna, very close. [LB81]

SENATOR FISCHER: So they're all within your three-mile boundary. What if Bellevue, La Vista, Papillion that's just down the road, and Gretna, what if they decide that they're going to implement this same policy and this same tax increase on people who aren't their residents but yet they work in those communities? [LB81]

TOM MUMGAARD: I would say that if people from Omaha are regularly going into those cities and causing those cities expense, Omaha would have very much sympathy with those cities... [LB81]

SENATOR FISCHER: So you wouldn't... [LB81]

TOM MUMGAARD: ...and certainly would not...would understand why they would want to recapture that. [LB81]

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SENATOR FISCHER: I hate to keep going on, so maybe this is the last one. Is that all right? [LB81]

TOM MUMGAARD: I'm here all day. [LB81]

SENATOR FISCHER: Okay. I have to check with Senator Utter. I'm looking down the road at this tax policy of taxing people who are nonresidents, and as I said before, maybe that's not all bad. In Cherry County, for example--I represent thirteen counties, but in Cherry County we have a number of landowners who aren't residents. Now just because they're not residents they still have to pay their property taxes. But maybe the argument could be made that they really aren't contributing to the economy of my county as residents do, so, gosh, couldn't we tax them a little more because they don't live there and so I can't get other money from them. So maybe I can do some kind of tax, come up with some name, new idea and tax them to have them contribute for services, because we still have to police their land, we still have to put out fires on their land, we still have to build roads to their land, but they aren't buying groceries and they aren't shopping and they aren't, you know, having services there because they don't live there. Is that fair? [LB81]

TOM MUMGAARD: Well, let me...this idea of no taxation without representation, I'll say... [LB81]

SENATOR FISCHER: Oh, that silly thing. [LB81]

TOM MUMGAARD: That was a toll bridge that we passed a long time ago. We have many, many instances of Nebraska tax policy where people who aren't residents here, have no say in how that money is spent, pay the taxes. Every time I go to Bellevue and buy something at their very nice Menards, I pay their city sales tax, and I have no say in how they're going to spend that. The gas tax that we've talked much about--it doesn't care where you live. If you're going to buy gas here in Nebraska, you're going to help pay for the roads. I mean, that's the fairness tag. If you're doing something here, it's fair to tax that. Just like sales tax, gas tax, all those other things. So this idea that if there's this arbitrary city limits and if you're not voting for people inside that city limits, you're free to do anything you want to in there without them touching you through their tax policy, that got crossed a long time ago. [LB81]

SENATOR FISCHER: I'll stop now, but my question was the reverse on that, my point, but I will stop there. Thank you very much. Thank you, Senator Utter. [LB81]

TOM MUMGAARD: Thank you. [LB81]

SENATOR UTTER: Further questions for Mr. Mumgaard? If not, thank you very much for your testimony. Next opponent. Good afternoon. Welcome. [LB81]

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PAM SPACCAROTELLA: (Exhibits 15, 16, and 17) Thank you very much. My name is Pam Spaccarotella. I'm the finance director for the city of Omaha. Last name is S-p-a-c-c-a-r-o-t-e-l-l-a. I'm here today to talk to you about LB81, and I think what I want to first talk to you about is the bill as originally written. The bill was originally written...what I wanted to do was give you an idea of the magnitude of the occupation taxes that the bill could potentially impact. We took a look at all the ones that could be impacted, and we calculate that the total loss in revenue, if it goes through as originally drafted, would be approximately \$48 million a year multiplied by the 40 percent rate, which is between \$18 million to \$20 million that we would lose if the bill goes through as originally enacted. So we do appreciate the amendment that would reduce it in scope to just the commuter wheel fee. And so I would like to talk to you just a little bit about the costs that we face with respect to road repairs and how the commuter wheel fee was enacted. Just to give you an idea of the scope of the roads that we currently maintain in the city of Omaha, we have over 1,480 lane-miles of major roads and over 4,500 lane-miles of all categories of roads. The main source of revenue that we have in order to maintain and resurface those roads is, of course, the city of Omaha vehicle registration fee. And for road improvements, the main source of revenue is the Street and Highway Allocation. In 2008, the Street and Highway Allocation was significantly changed or altered. As originally intended, it was intended to provide the same level of revenue, but, in fact, the city has received decreases in that revenue as a result of those changes. And, in fact, in 2009 and 2010, the city has received \$2 million less each year in order to maintain its streets. In addition to the declining revenues, over the last ten years we've seen significant increases in the costs of maintaining and repairing roads. And one of the handouts that's being provided to you is the cost of asphalt over the last ten years. And you can see that over the last ten years the cost of asphalt has almost doubled and is significant, as well as the increases of wages and benefits that we have paid to contractors and to city employees to maintain--we've increased an average of 3 to 5 percent per year. We've also had unprecedented levels of snowfall. Thank goodness, December was a good month for us and so we managed to skate through. But the effect of the snowfall in the city of Omaha has significantly impacted the funds available for repairs and resurfacing. With all those things that have been impacting the city, what we've actually had to do is dip into the reserves, in the funds that we have available for road repairs. In 2007 we had over \$9 million of reserves. At the end of 2010 we anticipate that we will have a negative balance in both of the funds available. During the 2011 budget process, the city increased the wheel fee for residents in an effort to generate additional revenues for street resurfacing and repairs. In...I do have a handout that they're making copies of, and I believe a couple of senators asked the magnitude of the people that actually drive in to work that don't live in Omaha. Currently, and this information came from the Omaha Chamber of Commerce, we have 271,156 primary jobs in the city of Omaha. Only 150,331 actually reside in the city limits. So 55 percent, or 45 percent, is what...people that are driving into the city every day for work that do not live there and do not pay either the wheel fee, the vehicle registration fee, or

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the three-mile jurisdictional fee. I'd also like to...I just wanted to give you an...I want to make my comment short because I do know that Tom took a little bit more time than anticipated, but a couple of things that did come up in the proponents that I wanted to address. The first thing is that it's very difficult to implement, and we do recognize that it is difficult to implement. And, in fact, just last week or the week before we published some regulations under the provisions that allow employers more guidance on how to implement those difficulties. And we also have met with the major employers in the city of Omaha and asked for their input as to how to implement the tax and how it could be more fairly or easily administered. And as a result of their input, we provided with what is called an aggregate method that allows them to estimate the individuals that are actually working in Omaha but living outside the city limits. So it eases the administrative burden on the employers as well. I guess that concludes my testimony. If there's any questions that you have, I'd be happy to answer them. [LB81]

SENATOR UTTER: Thank you, Ms. Spaccarotella. [LB81]

PAM SPACCAROTELLA: Pam is fine. [LB81]

SENATOR UTTER: Senator Adams. [LB81]

SENATOR ADAMS: Thank you, Senator Utter. Pam, what percent of Omaha's revenue is generated by sales tax? [LB81]

PAM SPACCAROTELLA: In the general fund it would be 42 percent. [LB81]

SENATOR ADAMS: Right. And property tax? [LB81]

PAM SPACCAROTELLA: Property tax is approximately 21 percent. [LB81]

SENATOR ADAMS: And what's your general fund property tax levy in Omaha? [LB81]

PAM SPACCAROTELLA: The property tax levy is currently...I think, it's 49 cents. [LB81]

SENATOR ADAMS: Is it 49 cents? [LB81]

PAM SPACCAROTELLA: Yeah. I think so. I'm going to have to double-check. I don't have that off the top of my head. [LB81]

SENATOR ADAMS: Thank you. [LB81]

PAM SPACCAROTELLA: You're welcome. [LB81]

SENATOR UTTER: Other questions? Senator Louden. [LB81]

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SENATOR LOUDEN: Yes, thank you, Senator Utter. Well, along that same...when you say 49 cents, now, that's the city? [LB81]

PAM SPACCAROTELLA: That's the city, that's correct. [LB81]

SENATOR LOUDEN: Okay. What's your...what's Douglas County's property tax levy? Is that somewhere down around .23 or something like that? [LB81]

PAM SPACCAROTELLA: Twenty-six cents. Twenty-six cents, Senator. [LB81]

SENATOR LOUDEN: Twenty-six... [LB81]

PAM SPACCAROTELLA: Um-hum. [LB81]

SENATOR LOUDEN: ...okay. Then...now, how much does Douglas County contribute to the upkeep of your streets in town, because the city of Omaha covers most of Douglas County, don't they? [LB81]

PAM SPACCAROTELLA: I'm going to leave that question to Bob Stubbe, who is going to talk, and he can talk a little bit about that. [LB81]

SENATOR LOUDEN: Okay. And when you mention up here that 45...did I understand the first part of your presentation, \$45 million annually from...and that's from wheel tax? [LB81]

PAM SPACCAROTELLA: No, those are from...it's...the bill as originally drafted actually impacts not just the commuter wheel fee but also occupation and license taxes. [LB81]

SENATOR LOUDEN: Now, occupation tax also, you have occupation taxes on motels and telephones and everything like that? [LB81]

PAM SPACCAROTELLA: Yes, we do. [LB81]

SENATOR LOUDEN: Yeah. [LB81]

PAM SPACCAROTELLA: And those would be...as the bill was originally drafted, we felt that those could potentially be included. [LB81]

SENATOR LOUDEN: And...okay. And you wanted to use those taxes on three miles out and so forth? [LB81]

PAM SPACCAROTELLA: No, those are different taxes. We just...the definition of

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nonresident in the bill, as originally drafted, had the potential for including nonresident businesses that pay the occupation license tax. [LB81]

SENATOR LOUDEN: Say that again. The people... [LB81]

PAM SPACCAROTELLA: Tom, do you want to talk about that? Okay. All right. Our understanding of the bill, as originally drafted, it would encompass more than the commuter wheel fee, which, I believe, is why the amendments are being proposed to restrict the provisions to only the commuter wheel fee. [LB81]

SENATOR LOUDEN: Okay. Okay. Then, I guess I'm wondering when you have 49 cents and your 26 cents...and what is the valuation of Douglas County, like \$46 billion, thereabouts? [LB81]

PAM SPACCAROTELLA: I do not know what Douglas County's valuation is. [LB81]

SENATOR LOUDEN: Okay. And I'm wondering, you know, when you have a 26-cent mill levy for a county, and I'm coming from counties that are .47 and .48 and nearly .49, why, you don't get much compassion when you're wanting to do something else and when you have this low of a mill levy. I mean, I'd have people that would...they would feel rich enough to go to Florida if they was only paying 26 cents on their property tax out there, and that's... [LB81]

PAM SPACCAROTELLA: Well, they would be paying...those people that live in Douglas County would be paying both the city and the county's property taxes. [LB81]

SENATOR LOUDEN: Well, yeah, but that's still...part of that is your city tax and that's your valuation of your city and your county also, so. Your mill levies...and I understand where you're trying to get more money from people outside the county, but your county mill levies aren't all that strenuous, really, are they? [LB81]

PAM SPACCAROTELLA: Well, I can't speak to the county, because we don't receive the county's property tax. [LB81]

SENATOR LOUDEN: Okay. But the county doesn't help the city of Omaha maintain any of those streets or anything? [LB81]

PAM SPACCAROTELLA: Again I'm going to defer to Bob Stubbe; I'm not sure of what arrangements...to my knowledge, they do not. [LB81]

SENATOR LOUDEN: Okay. Thank you. [LB81]

PAM SPACCAROTELLA: One thing, I guess, I would like to point out as well, though, is

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we have raised our property taxes each year for the last two years, so. Are there any other questions? [LB81]

SENATOR UTTER: Other questions? I do have one question... [LB81]

PAM SPACCAROTELLA: Sure. [LB81]

SENATOR UTTER: ...that I'd like to ask, and that's with regard to enforcement... [LB81]

PAM SPACCAROTELLA: Okay. [LB81]

SENATOR UTTER: ...and the penalties for nonenforcement. Can you just tell me exactly what those are? How can you be sure that the tax is being fairly enforced... [LB81]

PAM SPACCAROTELLA: Well... [LB81]

SENATOR UTTER: ...and secondly... [LB81]

PAM SPACCAROTELLA: Um-hum. [LB81]

SENATOR UTTER: ...what's the penalty if there is nonenforcement? [LB81]

PAM SPACCAROTELLA: The bill as originally drafted and passed that the city of Omaha does not have specific penalty provisions. So they fall back to the general...not failure to report provisions within the city charters, or city ordinances. And I believe that's \$500 for failure to file. As far as enforcement goes, we do have an internal audit function at the city of Omaha, and once the commuter wheel fee is up and running, it's our anticipation that we will enforce that just like we enforce any other provision. [LB81]

SENATOR UTTER: Thank you very much. [LB81]

PAM SPACCAROTELLA: Thank you. [LB81]

SENATOR UTTER: Seeing no further questions, appreciate your testimony. Next opponent. Good afternoon and welcome. [LB81]

ROBERT STUBBE: (Exhibit 18) Good afternoon. Thank you, Senators, for allowing me to provide testimony today. My name is Bob Stubbe, S-t-u-b-b-e. I am the public works director for the city of Omaha. On behalf of the city of Omaha, I would like to take...like to submit the following testimony regarding the need for the city of Omaha to retain the ability to collect user fees from persons commuting to work in Omaha. The city of Omaha Public Works Department maintains about 4,500 lane-miles of streets and over

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140 bridge structures. The streets and bridges are a significant and valuable asset for the city of Omaha and the surrounding communities. The street maintenance budget for 2011 is over \$22 million, which funds snow removal, pothole patching, concrete street repairs, street sweeping, and right of way maintenance performed by employees and contractors. We've also budgeted \$3.9 million for resurfacing deteriorated streets, but that level of effort is not sufficient to adequately resurface streets on a normal twelve- to fifteen-year cycle. To provide a safe, dependable, and efficient network of streets to its residents, commuters, visitors, and businesses requires increasing resources. Increases in materials, energy, labor drives up costs to maintain these assets, and reduced revenue from the gas tax allocation necessitates the city to look at other sources of revenue. Road deterioration and poor-quality ride increases vehicle ownership costs. Your car and truck wear out more quickly, requiring more maintenance and consuming more fuel. These conditions negatively impact the well-being, financial resources, and mobility of its citizens, visitors, and commuters. Omaha is home to major corporations, hospitals, universities, and numerous large and small businesses that provide many jobs to people living in Omaha and the surrounding communities. Commuters benefit from the network of streets and bridges that have traditionally been funded by Omaha residents, and they will be negatively impacted by deteriorating street conditions if adequate funds are not available. Funding for street maintenance has always traditionally come from user fees, whether gas tax allocation or vehicle registration fees. Other communities may use toll roads or income taxes to fund services that are provided and used by commuters. The vehicle commuter fee is for individuals that receive benefit from the network of streets within the Omaha area. It will help offset the rising cost to maintain streets that provide a benefit to all in a better-quality ride, economic competitiveness, and improved quality of life. We request that you vote against LB81, so that commuters that benefit from the use of city streets help fund the rising costs to maintain the 4,500 lane-miles of concrete, asphalt, brick, and gravel streets. Thank you, and I'm available to answer any questions. [LB81]

SENATOR UTTER: Thank you, Mr. Stubbe. Are there questions for Mr. Stubbe?
Senator Adams. [LB81]

SENATOR ADAMS: Thank you, Senator. Let me follow up a little further on the line of questioning that Senator Loudon had started earlier. And what percentage of Douglas County is occupied by the city of Omaha, do you know? [LB81]

ROBERT STUBBE: I don't. I can't tell you that. [LB81]

SENATOR ADAMS: Would it be fair to say, most of it? [LB81]

ROBERT STUBBE: There is a large portion of the city of Omaha that is part of Douglas County. I don't know if I can throw out a percentage, because the potential is that that might be wrong. [LB81]

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SENATOR ADAMS: Okay. Fair enough. And the Douglas County property tax levy is 26 cents. Do you know what they levy specifically for roads, Douglas County Board? [LB81]

ROBERT STUBBE: I do not. I mean, if it's similar to what the city of Omaha is, is that Public Works derives a majority of our resources for street maintenance, activities, improvements, and things like that from, really, two sources. One is the wheel fee, and then the other would be the gas tax allocation that we receive back from the state of Nebraska. [LB81]

SENATOR ADAMS: Okay. I don't have any other questions right now. [LB81]

SENATOR UTTER: Other questions? Senator Pankonin. [LB81]

SENATOR PANKONIN: Thank you, Senator Utter. Just following up a little bit on Senator Adams, and I live in Louisville, so I'm south, and we've heard about the county line and whatever, but I think over the years we've always heard that, fortunately, even though Omaha can't annex across the county line because of state law, but the annexation process and policy in the state of Nebraska has been fairly favorable to Omaha, compared to--I've always heard about St. Louis, for example, they could never annex. And do you think that's a fair statement, within Douglas County, that Omaha has had a fairly aggressive and successful annexation? You think of Millard and Elkhorn and those sort of things. Fair statement? [LB81]

ROBERT STUBBE: Well, I don't know if I can say aggressive. I can tell you that the city of Omaha definitely has annexed areas over the years that has provided, which essentially has increased the amount of responsibility that, from my perspective as public works director, that we have had to maintain. [LB81]

SENATOR PANKONIN: But also a great tax base. When we talk about not only the inner city, but when you talk about the Millard area, Elkhorn particularly, that's been very fast growing. I'm familiar with the west, Omaha, Douglas County. I know, obviously, when you get to the river, you're done, but there's quite...I think it's a fair statement to say there's quite a bit of property yet to the north that could be developed and annexed. [LB81]

ROBERT STUBBE: That is correct. There is no question about it that there's areas that are available for development. But again, if you're looking at it from the standpoint of the city of Omaha annexing these areas, which definitely have been very valuable areas, majority of those revenues go into the general fund, which are not used for the street networks that I'm responsible for maintaining. And again, to reiterate, is that we get gas tax allocation from the state of Nebraska and wheel tax, and that's two predominant

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sources of revenue that we use to maintain the streets. [LB81]

SENATOR PANKONIN: Thank you. [LB81]

ROBERT STUBBE: You're welcome. [LB81]

SENATOR UTTER: Further questions? Senator Adams. [LB81]

SENATOR ADAMS: Yes, thank you, Senator. You get gas tax allocation... [LB81]

ROBERT STUBBE: Correct. [LB81]

SENATOR ADAMS: ...and...based on lane-miles, correct? [LB81]

ROBERT STUBBE: Correct. Well, there's a formula based on...and, Senator Fischer, you'd probably know this formula better than I do, but it's essentially based on an allocation that comes back to the city of Omaha for population, lane-miles, and registered vehicles. And there's a percentage that's applied to each one of those that determines what that allocation to us; I think, it's 50 percent based on population, 30 percent based on registered vehicles, and 20 percent based on lane-miles. [LB81]

SENATOR ADAMS: Okay. Well, my next question is somewhat loaded, so you just answer it any old way you please. [LB81]

ROBERT STUBBE: Okay. [LB81]

SENATOR ADAMS: And maybe put one of my concerns as a rural senator to rest. As the state has developed the interstate system in the Omaha area over the last couple of decades, would it be fair to say that the state, in effect, has taken a lot of strain off your streets, yet in terms of lane-miles, then, you're still getting the dollars. [LB81]

ROBERT STUBBE: Again, if you look at the distribution, we're getting 20 percent based on lane-miles. But if you're looking at it from the standpoint of the interstate system as being an advantage to the city of Omaha, there's no question about it. But there's also, you have to look at it from the standpoint of how many connections are coming off of that interstate system that actually feed into the city of Omaha. And if you look at the potential congestion that occurs at each one of those locations, that's a significant burden upon, you know, the city of Omaha, from the standpoint of having to essentially maintain, potentially provide significant improvements, whether it's additional turn lanes, whether it's widening streets, and things like that. And again, that predominantly has always been a burden on the residents of the city of Omaha. [LB81]

SENATOR ADAMS: Well, you haven't completely calmed my concern. [LB81]

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ROBERT STUBBE: Okay, I will try again if you... [LB81]

SENATOR ADAMS: But in part, you did. In part, you did. Thank you. [LB81]

ROBERT STUBBE: You're welcome. [LB81]

SENATOR UTTER: Further questions? Senator Louden. [LB81]

SENATOR LOUDEN: Yeah, thank you, Senator Utter. Well, as you mentioned to Senator Adams there, that all you receive to maintain your roads is your fuel tax and this wheel tax. And that's all...that's what you run your budget on to maintain roads. [LB81]

ROBERT STUBBE: Correct. [LB81]

SENATOR LOUDEN: Why? [LB81]

ROBERT STUBBE: Well, that's essentially...again, user fee and the wheel tax are specifically dedicated towards those resources. [LB81]

SENATOR LOUDEN: I know, but why don't they have something else? I mean, the county I'm from, a good deal of their budget goes into maintaining roads from...well, we've got a county 70 miles long by 30 miles wide. And we've got roads that are a lot harder to maintain than a lot. We don't have the traffic, but nonetheless you have the problems. But we not only use our fuel tax but we use regular revenue, because the road fund takes a big chunk out of the county budget every year. I'm asking, how come Douglas County or somebody don't pony up with part of their revenue for that? Douglas County gets some of that fuel tax money... [LB81]

ROBERT STUBBE: That is... [LB81]

SENATOR LOUDEN: ...too. What do they do with it? [LB81]

ROBERT STUBBE: Essentially for the same thing: maintaining, potentially, gravel roads that are leading into areas within the county. They have some paved streets that they maintain that aren't part of the...that have not been annexed by the city of Omaha. With regard to whether other funds can be provided to for maintenance of streets, I mean, that's a policy decision. That's determined by, you know, the mayor and the city council. [LB81]

SENATOR LOUDEN: But I guess I have a problem with when you say that's all the funds you have to maintain your roads and when we have counties all over the state of

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Nebraska that use property taxes to maintain their roads, and I guess that's where I kind of have a problem. That would be my first question, and until that is answered sometime I guess I would have to keep studying this bill. [LB81]

ROBERT STUBBE: Okay. [LB81]

SENATOR LOUDEN: Thank you. [LB81]

ROBERT STUBBE: You're welcome. [LB81]

SENATOR UTTER: Senator Fischer. [LB81]

SENATOR FISCHER: Thank you, Senator Utter. Thank you for being here today, Bob. [LB81]

ROBERT STUBBE: You're welcome. [LB81]

SENATOR FISCHER: There's 4,500 lane-miles... [LB81]

ROBERT STUBBE: Correct. [LB81]

SENATOR FISCHER: ...within the city limits of Omaha. [LB81]

ROBERT STUBBE: Um-hum. [LB81]

SENATOR FISCHER: Does that include state highways or is that all city? [LB81]

ROBERT STUBBE: That's all city. [LB81]

SENATOR FISCHER: Can you tell me what the percentage would be on that 4,500, what percentage would that be if you included lane-miles that are maintained by the state? [LB81]

ROBERT STUBBE: For the interstate system, I... [LB81]

SENATOR FISCHER: Within the city limits. [LB81]

ROBERT STUBBE: Yeah, that I can't tell you. [LB81]

SENATOR FISCHER: If you're looking at lane-miles. [LB81]

ROBERT STUBBE: Yeah, if it's...let's say, for example, Highway 6, Dodge Street; that's something that's a state highway but that's something that we maintain. And we get

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some reimbursement from the state of Nebraska for snow removal and things like that. The interstate system, I really can't tell you, Senator Fischer, as far as what the... [LB81]

SENATOR FISCHER: Okay. [LB81]

ROBERT STUBBE: ...quantity of the interstate system as far as lane-miles would be equivalent. [LB81]

SENATOR FISCHER: You mentioned that the different interchanges along the interstate can cause problems for the city of Omaha with congestion, but I would propose to you that the interstate also helps with congestion on the city streets of Omaha too. [LB81]

ROBERT STUBBE: I would agree with you. [LB81]

SENATOR FISCHER: What do you think...and I'm sure you see it happening when the construction and maintenance is done on the interstate, how does that add to congestion on the city streets? [LB81]

ROBERT STUBBE: Well, anytime that...and it might not be just the construction, but the potential for...a potential...you know, an accident that might occur. There's a significant load that ends up going onto the city of Omaha streets. And that's part of the reason why that we've always tried to focus in on the major streets as being the prime mover of vehicles, and therefore we put significant effort into making sure that the major streets are plowed and we put a lot of emphasis into making sure they're plowed on a regular basis and then also with regard to the maintenance and resurfacing that goes into those sections of streets. [LB81]

SENATOR FISCHER: Appreciate the work you do. Thanks. [LB81]

ROBERT STUBBE: Thank you. [LB81]

SENATOR UTTER: Further questions for Mr. Stubbe? I see none. Thank you very much for your testimony. [LB81]

ROBERT STUBBE: Thank you. [LB81]

SENATOR UTTER: Are there further opponents wishing to testify? Seeing none, are there any here that would like to testify in a neutral capacity? If not, Senator Cornett, you're welcome to close. [LB81]

SENATOR CORNETT: Thank you, Senator Utter and members of the committee. There were a few comments made this afternoon that I would like to address. Mr. Mumgaard

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commented that the city of Omaha has been utilizing the wheel tax for 81 years. For 81 years they haven't tried to reach outside their boundaries to other communities or other states to collect a wheel tax. It is only now, in the time of economic hardship, which we are all facing. As you well know, at the state level we have a huge deficit, and we have drawn the line in the sand at not passing...increasing taxes. I think everyone in this room has worked very hard and diligently on that and made the cuts necessary. We haven't tried to reach out and tax people outside of our states or outside of our communities. To the cost of the roads increasing, everyone in this room's communities are facing those same increases in the cost of asphalt, and the same declining revenue problems. And your communities are not trying to do this. When you talk about the...Mr. Mumgaard brought up 30 days, people working, and that they did not wish to impose this on shopping. City of Omaha residents live all along Harrison Street. Sarpy County is the fastest growing community in the state. We have wonderful shopping malls, we have wonderful stores that are opening, we have Super Walmarts. I guarantee you, the people from Omaha on 72nd Street and 84th are shopping in Sarpy County more than 30 days a month, and we are not trying to impose a wheel tax on them for using our streets. You asked the question in what the percentage is. The city of Omaha did not raise their property taxes for eleven years. They have not addressed their budget issues. Their attempts at addressing the budget issues is attempting to tax people outside the city of Omaha. Their tax rate currently is 64.55 percent. Most of your communities, particularly you, Senator Loudon, are right up...a lot of your communities are right up against their lid levies, if I'm not (sic) correct, as are a number of communities through this state. And they would be begging for the rate, property tax rate, that the city of Omaha currently has. Senator Loudon, you brought up a very good point. Why does the city of Omaha not use some of their other revenue sources to fund their roads? If the people are coming in from outside the city to shop in the city of Omaha, they're collecting their sales tax. If they're working in the city of Omaha and they're eating lunch there and they're buying their gas there and they're stopping at the convenience store and they're going to dinner, they're collecting sales tax. Why isn't part of their other revenue sources going to fund roads in the city of Omaha? Why do they expect the communities around them to fund their roads? But most importantly, besides the fact that I represent Sarpy County, which this directly affects, we need to look at tax policy, and that is what first...well, obviously, my community going up in arms was what first brought this to my attention. But then the Revenue Committee started getting really interesting phone calls. Well, what if we impose a wheel tax? So now, theoretically, very, very common in Sarpy County and Omaha because we are next to one another. Someone lives in Papillion. Their husband works on the base, the wife works in the city of Omaha, and maybe their son works in Ralston or La Vista. Do you end up paying three and four wheel taxes? I don't know. The way the law is written, yes, that could happen. Is that good tax policy? No. The next question that that brought up was, we actually had a city call, a city administrator, and want to impose a wheel tax on everyone that didn't reside in the city, that worked in the city. Under the statute the way it is currently written, they can do that. And that was, yes, punitive and directed at

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Omaha. This does not make for good tax policy, and neither does it make for good relationships with your neighboring communities or your neighboring states. The business community has testified today how difficult it will be to administer. We have fielded calls from all of the major corporations on the fact that it will cost more, in a lot of cases, to collect this than even paying the fine would be and to administer it. That they're--no way they're going to recoup their losses. We've had businesses say, we're just not going to collect it. What do you do if your employer refuses to pay it? What if you're a smaller business and you don't issue automatic deposits and you actually write a check? How do you collect it from your employee, if they don't pay you the money? With that, I urge the body to support LB81 with the amendments that I have drafted. And I will explain a little bit about the first amendment. When I drafted this, as Senator Fischer knows because we've had a number of conversations, there's been a number of discussions over the course of the interim on occupation tax. And originally I drafted this fairly broadly. But it came to our attention that the wheel tax issue is somewhat of just a separate issue, because it is imposed on people that do not reside inside the city, that are nonresidents. So with that in mind, we offered the amendment to make this just wheel tax-specific, and we did draft another bill that looks at occupation tax. And you will be hearing that, as I believe Senator Fischer has also drafted an occupation tax bill. On the second amendment, in regards to the ETJs. The city of Omaha has been collecting that wheel tax from the extraterritorial zoning jurisdictions for about four or five years now. A lot of those communities will be facing annexation. A lot of those areas, they are close enough that I felt that that amendment was proper to offer, and that will be up to the committee to decide whether we pass or do not pass that amendment. With that, I urge the committee to support LB81 with the...at least the one amendment which limits it to just wheel tax, and we will deal with the other issues of occupation tax later. Thank you. [LB81]

SENATOR UTTER: Thank you, Senator Cornett. And with that, that closes the hearing on LB81. [LB81]