

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

[LB747 LB889 LB896 LB898]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Tuesday, January 31, 2012, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB898, LB747, LB896, and LB889. Senators present: Deb Fischer, Chairperson; Galen Hadley, Vice Chairperson; Kathy Campbell; Annette Dubas; Scott Lautenbaugh; LeRoy Loudon; and Scott Price. Senators absent: Charlie Janssen.

SENATOR FISCHER: Good afternoon and welcome to the Transportation and Telecommunications Committee. My name is Deb Fischer. I am the Chair of the committee and I am the senator representing the 43rd District here in the Nebraska Unicameral. At this time I would like to introduce to you our members who are present. On my far right is Senator Scott Price who is from Bellevue. Next we have Senator Kathy Campbell from Lincoln. Next is Senator Galen Hadley from Kearney and he is the Vice Chair of the Committee. On my immediate right is Mr. Dusty Vaughan who is the committee counsel. On my immediate left is Miss Jonna Perlinger who is our committee clerk. And next we have Senator Annette Dubas who is from Fullerton. We do have three senators who are currently missing from the committee. As you know, other committees are meeting and senators are in and out introducing bills in other committees, so I would ask that you please not be offended if senators are getting up and leaving the hearing room; most likely they are introducing other bills. Our pages for today are Gera Carstenson from Lincoln and Alex Wunrow from California, so welcome. If you need any help, please feel free to contact our pages and they will assist you. We will be hearing the bills in the order that they are listed on the agenda. Those wishing to testify on a bill should come to the front of the room and be ready to testify as soon as someone finishes testifying in order to keep the hearing moving. I ask that you complete the yellow sign-in sheet at the on-deck table so it is ready to hand in to our committee clerk when you testify. Please complete that yellow sign-in sheet. We do use a computerized transcription program and so it's very important that you follow the directions on the sheet. For the record, at the beginning of your testimony please spell your last name and also your first name if it can be spelled several different ways. Please keep your testimony concise and try not to repeat what someone else has covered. I will use my discretion today on the time limits. I would ask that you try to keep your testimony to three to five minutes. And depending on how many people are here to testify, again I may stop you in your testimony in order that we can hear all the testifiers. But please be aware that this committee, we do ask questions, and so at that time you will be able to express your thoughts on those questions. If you don't want to testify, but you do want to voice your support or your opposition to a bill, you can indicate that at the on-deck table. There's a sheet provided there for you. However, if you want to be listed as part of the official record of the hearing on the committee statement, you need to come forward, state your name and also your position on the bill. If you do not choose to testify, you may submit written comments; those are entered into the record. I

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

would ask that you turn off your cell phones at this time. In the committee we do not allow cell phones on and that means no texting. With that I will open the hearing on LB898 and would ask our committee counsel, Mr. Vaughan, to please introduce the bill. Good afternoon.

DUSTY VAUGHAN: Good afternoon, Senator Fischer and members of the Transportation and Telecommunications Committee. For the record my name is Dusty Vaughan, spelled V-a-u-g-h-a-n, and I'm the legal counsel for the committee. LB898 is a simple bill that increases the statutory allowance for a minitruck's engine size from a piston displacement of 1,000 cubic centimeters to a displacement of 1,500 cubic centimeters. Since this committee and the Legislature passed LB650, in 2010, that authorized minitrucks on the highways, the manufacturing industry has begun to make minitrucks with four-wheel drive. This change has increased the engine size, which has brought some minitrucks outside the statutory maximum piston displacement. Without the change in LB898, these minitrucks would not legally fall under the definition of minitruck, and could not be titled and registered nor driven on the highways. With that, Senator Fischer, I will end my testimony and answer any questions from the committee. [LB898]

SENATOR FISCHER: Thank you, Mr. Vaughan. Any questions? I see none. Thank you very much. Would the first proponent for the bill please step forward. Good afternoon. [LB898]

JOHN FITZGERALD: (Exhibit 1) Good afternoon, Senator Fischer and the other senators of the committee. Appreciate the opportunity to speak as a proponent of LB898. [LB898]

SENATOR FISCHER: If I could have you say and spell your name, please. [LB898]

JOHN FITZGERALD: I'm John Fitzgerald, J-o-h-n F-i-t-z-g-e-r-a-l-d. [LB898]

SENATOR FISCHER: Thank you. [LB898]

JOHN FITZGERALD: I'm the territory manager for Van Wall Equipment in Omaha, Nebraska. We are a licensed motor vehicle dealer under Nebraska Law Dealer License 06311. The part of what we sell as equipment is a diverse line of minitrucks and low-speed vehicles, both of which are relatively new to Nebraska. Minitrucks are compact, highly efficient, federal highway safety approved for that minitruck status. And the brands you may be familiar with in the marketplace are Suzuki, Vantage, Mitsubishi, Subaru, and others; and I speak for a change in the existing law that this bill would therefore amend to increase the size of the engine. The vehicles, specifically the four-wheel drive minitrucks, otherwise fully comply with the existing law relative to size, dimension, weight, safety requirements. And as the marketplace, minitrucks have been

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

around since the '60s, but primarily are initially in the Far East, and over the last decade or so have made their way into the practical application in the U.S. market, and for here, Nebraska in particular. The minitruck, both the two-wheel drive and the four-wheel drive, are applicable to farmers and ranchers and nursery operators, arborists, college campuses, municipalities, utilities, in part because they are compact, very fuel efficient, and regulated so they can be both on-road and off-road vehicles. For the comparison between...changing the engine from 1,000 cubic centimeters to 1,500 cubic centimeters to have somewhat of a perspective is only a change of 15-18 horsepower. A minitruck will normally be in the 50-55 horsepower range, and a four-wheel drive truck of that style will be in the 70-75 horsepower range. Not a significant increase. And for a couple of comparative analogies, other than if you're not familiar with minitruck in particular, is motorcycles, Harley-Davidson motorcycles. You can't miss them either by advertising or ownership. But they have engines in them that are approximately 850 cubic centimeters up to almost 1,700 cubic centimeters. So we're talking about in the minitrucks, whether it's a two-wheel drive or a four-wheel drive, its engine's size is not as large as the big motorcycles out on the street, so it is really a different breed of practical vehicle for the state of Nebraska. And the change we're talking in favor of, applies to all dealerships in Nebraska that deal with these vehicles, so it isn't about the Van Wall Equipment or the particular line that we carry. It would apply to everybody the same. In the maybe more practical, even yet, analogy is a Ford Ranger pickup which is their small pickup, four-wheel drive and two-wheel drive, but the dimensions of those vehicles are bigger and their horsepower is 140-207 horsepower, which is just a completely different animal than the minitruck and thus we have the separate minitruck law in the state of Nebraska. And would ask that the only change to the bill, the only change to the requirements under the law for these vehicles would be the engine size increase from 1,000 up to or less than 1,500 cubic centimeters. And I don't think that change in any manner tampers with the intent or the spirit or the purpose of the laws originally enacted in 2010. So with that I appreciate the committee's consideration of this bill that would amend that provision of the existing law. And, Senator Fischer, appreciate your bringing it forward for us to consider. [LB898]

SENATOR FISCHER: Thank you, Mr. Fitzgerald. Are there questions? I see none. Thank you very much. [LB898]

JOHN FITZGERALD: Thank you. [LB898]

SENATOR FISCHER: Are there other proponents for the bill? Any other proponents? Any opponents to the bill? No opponents? Anyone wishing to testify in the neutral capacity? I see none. We will waive closing and that closes the hearing on LB898 and we open the hearing on LB747. So, see Senator Hadley, how quickly these go. Thank you, sir, for coming. Good afternoon, Senator Hadley. [LB898]

SENATOR HADLEY: Chairperson Fischer, members of the committee, my name is

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

Galen Hadley, G-a-l-e-n H-a-d-l-e-y, Legislative District 37. When I was looking at this, I find it ironic that we're talking about the Midwest Passenger Rail Compact, and it's LB747, which reminds you of a plane, doesn't it, so it's easy to remember. Statutory authority for Nebraska to participate in the Midwest Passenger Rail Compact was enacted in 2001, LB245. The purposes of this compact are through joint or cooperative action to promote development and implementation of improvements to inner-city passenger rail service in the Midwest; to coordinate interaction among Midwestern state elected officials and their designees on passenger rail issues; to promote development and implementation of long-range plans for high-speed rail passenger service in the Midwest and among other regions of the United States; (4) to work with the public and private sectors at the federal, state, and local levels to ensure coordination among the various entities having an interest in passenger rail service and to promote Midwestern interests regarding passenger rail; and (5) to support efforts of transportation agencies involved in developing and implementing passenger rail service in the Midwest. The Nebraska Legislature has not appropriated funds for compact dues for at least four years and there's no appropriation currently budgeted. I feel it is time to determine whether Nebraska should remain a member of the compact or to withdraw from further participation. If it is the legislative decision to continue to participate, then let us appropriate funds to pay the back compact dues and actively promote the stated purpose of the compact. If that is not the legislative decision, then let us enact LB747 to repeal the enabling statutes and withdraw from the compact. So the reason that I brought LB747 is for us to make a decision as a Legislature as to whether we want to be a member of the Midwest Rail Compact. We have not paid dues for basically four years and I think it's inappropriate if we're a member without paying dues and so I think it's a legislative decision as to whether we continue membership. If we continue membership, I would argue that we pay the past dues and pay the current dues and move ahead; or if the body feels that LB747 is correct, we withdraw from the compact and go from there. With that I would be happy to answer any questions. [LB747]

SENATOR FISCHER: Thank you, Senator Hadley. Are there questions? Senator Loudon. And I would note for the record we've been joined by Senator LeRoy Loudon from Ellsworth. Senator Loudon. [LB747]

SENATOR LOUDON: Thank you, Senator Fischer. Well, over the years that we've been here this has always come about, oh, I think Senator Schimek and we've had this discussion years ago. The reason...part of the reason we don't push on this is because nobody really gets involved with the Passenger Rail Compact. Now a few years back when we had the new administration come in, the present one now, they were pushing passenger train service. And I've always thought that this is something that we probably need to kind of keep our foot a little bit into the puddle because of the chance for passenger rail service between Lincoln and Omaha. There could come a time, there for a while it looked like we would maybe get some federal funding for it, and that's part of the reason why I've always voted to stay in that rail compact. I think as much railroad as

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

we have in Nebraska that it's probably prudent to stay with it, Amtrak and everything that goes through here. So, that was...for what little it cost us to belong to it, and I realize that I think Senator Stuthman was delegated to go to some of the meetings, and I don't think he ever went either. I think Senator Schimek was, and maybe Senator Fischer may have been on that. And I don't know as anybody has ever really got involved with it, but I think it's something that we, as the state of Nebraska, need to keep on the low burner someplace, because we do have a lot of railroads and there is a chance for some service in Nebraska. [LB747]

SENATOR FISCHER: Thank you for your comment, Senator Louden. Are there other questions? Senator Price. [LB747]

SENATOR PRICE: Thank you, Senator Fischer. Senator Hadley, thank you. Sometimes we need a poke in the eye to finally deal with something, but just looking at this poke, it looks like we're \$60,000 behind, and if we wanted to be in good stead it would take \$75,000? [LB747]

SENATOR HADLEY: Um-hum. [LB747]

SENATOR PRICE: Okay. I just wanted to make sure we...thank you. [LB747]

SENATOR FISCHER: Thank you, Senator Price. Senator Campbell. [LB747]

SENATOR CAMPBELL: Thank you, Senator Fischer. Senator Hadley, I thought I read in the newspaper a little bit an article about this. And some of the other states that are a part of this, have they withdrawn? [LB747]

SENATOR HADLEY: I think we're going to have the executive director, shortly, up here that can answer that, Senator Campbell. I do not know whether that's correct or not. [LB747]

SENATOR CAMPBELL: Okay. Thank you, Senator. [LB747]

SENATOR FISCHER: Thank you, Senator Campbell. Other questions? I see none. Thank you, Senator Hadley. [LB747]

SENATOR HADLEY: Thank you, Senator Fischer. [LB747]

SENATOR FISCHER: At this time I would ask for the first proponent for the bill to please step forward. Good afternoon, Director. [LB747]

MONTY FREDRICKSON: (Exhibit 2) Good afternoon, Chairwoman Fischer, and members of the Transportation and Telecommunications Committee. My name is Monty

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

Fredrickson, M-o-n-t-y F-r-e-d-r-i-c-k-s-o-n. I am the director-state engineer for the Nebraska Department of Roads. I'm here today to provide testimony in support of LB747. As you have heard, LB747 would remove the state of Nebraska from the Midwest Interstate Rail Compact. This compact was formed in 2001 by a group of 12 Midwestern states to promote development and implementation of improvements to intercity passenger rail service in the Midwest. Chicago was the hub for the overall system, with lines radiating out from Chicago to other Midwestern cities. One of the proposed lines extends from Chicago, through Iowa City and Des Moines in Iowa, and then to Council Bluffs and Omaha. In order to provide service west of Des Moines for this route, the state of Nebraska would be required to provide significant funding for detailed studies, track infrastructure, capital equipment, and operating subsidies. Since 2009, the Legislature has not appropriated funding for payment of compact dues; therefore, the Department of Roads is requesting Nebraska's removal from the administrative obligations of the compact and from any future financial obligations relating to the cost of studies and development work undertaken by the compact. I would also like to thank Senator Hadley for introducing LB747 and would be happy to answer any questions. [LB747]

SENATOR FISCHER: Thank you, Director. Are there questions? Senator Dubas. [LB747]

SENATOR DUBAS: Thank you, Senator Fischer. And thank you, Director, for coming here. I appreciate some of the information that you've shared. Do you feel if we dropped out of this compact we would be at any type of disadvantage when it comes to building or improving this type of infrastructure in the state? [LB747]

MONTY FREDRICKSON: I don't think it prevents us from partnering with any other state on any kind of an initiative that we felt was feasible, both from a financial aspect and a physical aspect. [LB747]

SENATOR DUBAS: So either way we would fund whatever study or whatever projects that we wanted to see go forward in the state. [LB747]

MONTY FREDRICKSON: It would give us the independence to do that, for sure. We just wouldn't be a part of this particular compact and wouldn't be paying the dues for the 11 of the original 12 states. There was one state that dropped out and that was South Dakota. [LB747]

SENATOR DUBAS: And your experience with being a part of this compact, kind of a similar question of what I just asked you, okay, if we drop out and these other states want to do something, do you think they could squeeze us out of putting something together that would benefit our state or not? [LB747]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

MONTY FREDRICKSON: It's possible. [LB747]

SENATOR DUBAS: Thanks for your... [LB747]

MONTY FREDRICKSON: We're on the fringe of, you know, the radius of these lines, so. And the population gets less and less as you get further away from Chicago, so the feasibility gets tougher and tougher and it has to compete with other things, so. It's a decision we're willing to live with. [LB747]

SENATOR DUBAS: How much does your department deal with these types of railroad issues on a regular basis? [LB747]

MONTY FREDRICKSON: We deal hardly at all with passenger rail issues. Most of our dealings are with the Burlington and the UP with parallel and the crossing issues with our highways. [LB747]

SENATOR DUBAS: All right, thank you. [LB747]

SENATOR FISCHER: Other questions? Senator Price. [LB747]

SENATOR PRICE: Thank you, Senator Fischer. Thank you, Director. Real quick, can you approximate or give me an idea of the size of these studies? I mean, we see here in your testimony that we'd be on the hook for capital investment. Have you seen any preliminary numbers of what that value, that level of effort would be? [LB747]

MONTY FREDRICKSON: First of all, don't misinterpret that we would be on the hook, because you'd have to sign on to a study and put the money in. I don't think by joining or rejoining the compact that you promise to pay any and all study costs divided by 11 or 10. But to answer your other question, what do these studies cost? They can be anywhere from \$200,000 to \$2 million just for a feasibility study. [LB747]

SENATOR PRICE: Well, it's good to hear that patronage doesn't obligate, and it's good to get that on the record. Thank you. [LB747]

SENATOR FISCHER: Thank you, Senator Price. Senator Campbell. [LB747]

SENATOR CAMPBELL: Thank you, Senator Fischer. In the time that we have participated on this, have there been any studies done by the compact? [LB747]

MONTY FREDRICKSON: There's one going on now. There was some funding secured through an earmark, I believe, in a previous highway bill, and maybe even some funding out of the ARRA program which does require a match. So the compact doesn't make the match; the states that want to participate then have to agree to put up the match

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

money. So they're beginning a study from Chicago through the Quad Cities, through Des Moines, to Council Bluffs/Omaha in a few months. They've hired a consultant so there will be a study going on. [LB747]

SENATOR CAMPBELL: And we haven't...we haven't signed onto that study, I take it. [LB747]

MONTY FREDRICKSON: No, we are not participating in the study. [LB747]

SENATOR CAMPBELL: Have there been any studies on which we've actually seen a line created from Chicago to blank? I mean, are any of them complete, the lines out of Chicago? [LB747]

MONTY FREDRICKSON: Well, there's another grant that Iowa and Illinois received to upgrade the line from Chicago to the Quad Cities, and a lot of this is on existing track. And so maybe they add some turnouts to coexist with the freight traffic. Maybe they upgrade some of the stations. Maybe they add more passenger cars to the line, those kind of things. But as I understand it, and we really haven't been involved in this much, much of this is on existing lines because it would just be too costly to build a railroad in today's world on new alignment. [LB747]

SENATOR CAMPBELL: Okay, thank you, Director. [LB747]

SENATOR FISCHER: Thank you, Senator Campbell. Other questions? Director, could you tell me, do you believe there's federal funding available for any passenger rail? [LB747]

MONTY FREDRICKSON: There is. Yes. [LB747]

SENATOR FISCHER: To be built or for studies? [LB747]

MONTY FREDRICKSON: Both. [LB747]

SENATOR FISCHER: Is it sufficient to handle the entire cost of a project, or would the states have to kick in? [LB747]

MONTY FREDRICKSON: The funding I know of usually requires a match. [LB747]

SENATOR FISCHER: And what...is it a 50-50 match, is it a 80-20 match? What kind of match are we talking about here? [LB747]

MONTY FREDRICKSON: The study for the Omaha to Council Bluffs line was a 50-50 match, and ARRA money was a one-time thing and I think that was 100 percent money.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

And then it could well be 80-20 in the future. It's kind of whatever the bill that passes dictates. [LB747]

SENATOR FISCHER: Can you tell me, are you familiar with any of the planing that's been done by the compact with regards to the development of these services coming out? It seems that I somewhat recall it was a three-part plan taking place at the core and then working its way out, and so basically Omaha was the last years of the plan then, of course, to be developed. Do you recall any of that? [LB747]

MONTY FREDRICKSON: I am not familiar with those early days of the compact and those studies. All I know is what kind of I've read from the Iowa information that they're interested in the Quad Cities to Iowa City to Chicago line. [LB747]

SENATOR FISCHER: Were there any lines going to South Dakota, do you know? [LB747]

MONTY FREDRICKSON: I don't recall any. [LB747]

SENATOR FISCHER: Okay, thank you. Other questions? I see none. Thank you very much. [LB747]

MONTY FREDRICKSON: Thank you. [LB747]

SENATOR FISCHER: Are there other proponents for the bill please? Any other proponents? Any opponents to the bill? Please come forward. [LB747]

DAVID PURDY: My name is David Purdy. [LB747]

SENATOR FISCHER: Oh, please wait until you sit down so we can get it on the microphone for the transcriber, sir. And good afternoon and welcome. [LB747]

DAVID PURDY: Good afternoon. My name is David Purdy. I'm the president of ProRail Nebraska, which is an advocacy group that advocates passenger rail service improvements. [LB747]

SENATOR FISCHER: And could you please spell your last name for us. [LB747]

DAVID PURDY: My name, David, I think everybody knows how to spell David. Purdy is spelled P-u-r-d-y. [LB747]

SENATOR FISCHER: Thank you. [LB747]

DAVID PURDY: (Exhibit 3) I'm going to depart a little bit from the written comments

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

because other people will...I want to avoid duplication and other people will handle certain aspects. What I really want to say that I hope is useful is that when we participate in these MIPRC meetings, which is fairly seldom, we don't have a great deal to say because we have no state-initiated or supported passenger rail activities. But there are some things going on inside the area of the MIPRC which do affect Nebraska and I think Nebraska has to pay some attention to it. Mr. Fredrickson mentioned a couple of things coming out of Chicago. I want to say that construction on the Chicago to Quad Cities line is scheduled to start this spring, and that funding is in place for that project. As for the project from that point on, the government has granted a grant for a preliminary engineering design, to try to use the words used in the grant, for service from Chicago to Omaha. And I want to emphasize that the grant says Omaha. In other words, the grant provides for activities inside the state of Nebraska. And Nebraska, as a state, has no relationship to this activity. Nebraska will not be asked to put any money into the engineering design phase because the grant has been granted and the money has been put up by the federals and by the state of Iowa. I personally would like to see this project extended to Lincoln. I would think it would serve the state of Nebraska a lot better if the service were from Lincoln to Chicago rather than Omaha to Chicago. It would be a relatively simple thing to do. It has in some measure been previously studied in 2003 when we did the commuter design between Lincoln and Omaha. So there is a lot of information that could be reused. But since Nebraska has not chosen to participate in this kind of work at all, we have nothing on this subject and at best the service will terminate in Omaha. I think it is also important to mention that other states are doing things like there is a group of people in St. Joe, Missouri, who are advocating for Omaha to Kansas City service. It will not happen immediately because the state of Missouri is developing an overall transportation master plan which may or may not include this project, but the state of Nebraska should be aware and keep up to date on what is going on in this line as well. And finally, there is the work that the state of Kansas is doing on service between Newton, Kansas, and Kansas City, which on the surface may not sound like much, but it is a missing link in a service that will eventually go from Chicago on Illinois lines to St. Louis; and from St. Louis to Kansas City over the existing passenger rail lines where there is already service; and then from Kansas City to Newton; and from Newton on to Dallas. So they are putting together a very long passenger rail service and it is bypassing the state of Nebraska completely. I think that we have to keep ourselves in the MIPRC so we can, as a minimum, keep track of what all these different projects are and how they will affect Nebraska. If we don't at least keep aware, there's a good chance that we'll bypass a number of great opportunities. Thank you. [LB747]

SENATOR FISCHER: Thank you, Mr. Purdy. Are there questions? If you could clarify for me, sir. [LB747]

DAVID PURDY: Yes. [LB747]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

SENATOR FISCHER: ProRail, is that a private advocacy group? [LB747]

DAVID PURDY: It is a private...it's more or less a club. It is a 501(c)(6) corporation. That is to say, it is owned by its members and it receives very little outside sourcing and certainly none from railroads. [LB747]

SENATOR FISCHER: And this is a group just of citizens who are interested in promoting passenger rail here in Nebraska, is that correct? [LB747]

DAVID PURDY: That's correct. [LB747]

SENATOR FISCHER: And when you spoke about the Omaha to Kansas City line, you brought up that...I believe you said folks are advocating for that. Is that from another private group of citizens then? [LB747]

DAVID PURDY: That is a group of people in St. Joe, Missouri. I don't know their organization. [LB747]

SENATOR FISCHER: Are they connected with the state of Missouri at all in trying to do this? [LB747]

DAVID PURDY: They talked to the state of Missouri, but they're a private group. [LB747]

SENATOR FISCHER: Okay. You mentioned a study that was done for the rail between Lincoln and Omaha. And you said "we" did a study. Did the state of Nebraska do a study? Who did the study? [LB747]

DAVID PURDY: The state of Nebraska sponsored the study. The work was done by the Wilbur Smith corporation. [LB747]

SENATOR FISCHER: Okay. Would you happen to know the date on that? [LB747]

DAVID PURDY: It was 2003. [LB747]

SENATOR FISCHER: Okay. Thank you. I appreciate that. Other questions? I see none. Thank you so much for coming in today. Next opponent for the bill, please. Thank you. Good afternoon and welcome. [LB747]

LAURA KLIEWER: (Exhibit 4, 5, 6, and 7.) Thank you. Chairwoman Fischer and members of the Transportation and Telecommunications Committee, thank you for allowing me to speak in opposition to LB747. My name is Laura Kliewer, K-l-i-e-w-e-r. I'm the director of the Midwest Interstate Passenger Rail Commission that is a compact

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

among 11 states. Each state had to pass enacting legislation to join. So we have 11 states currently in the compact; Kansas was the latest to join in 2010. Nebraska has been a member since 2001. It was the fifth state to join and was part of the first meeting of the commission which was originated from a task force of the Midwestern Legislative Conference. So at its core, the commission is an avenue for state elected officials and their designees to work together to be educated on what the benefits of passenger rail development are and to support state DOTs in the work that they're doing on passenger rail development. So I wanted to clarify that the compact does not require states to develop any passenger rail service; rather, it serves as an avenue for you as state legislators, for governors and their designees, and members of the private sector, because there are four commissioners and alternates appointed from each state. In Nebraska, just appointed less than a year ago, Senator Fischer was appointed and Senator Cornett as the primary delegates, and then Senator Hadley and Senator Price as the alternate delegates. Unfortunately, none of them were able to come to the meeting that we had in June of 2011. And we do have other things. We've had Webinars to educate legislators and governors and their designees on what other states are doing. There is a lot going on in the passenger rail world, as you may know. So, it's a way to inform you; it's a way to...and it's a way to coordinate support and to be a voice for the region. The Midwest, due to the work of the commission, has been looked at as the region with the systems approach to passenger rail development. We have worked with the DOTs to make sure that the plan that they have for passenger rail development is known, is supported, and it has received significant funding, \$2.6 billion so far from the High-Speed Intercity Passenger Rail Program that was started at the federal level, first initiated by President Bush through his signing of the Passenger Rail Investment and Improvement Act, and then funded initially from stimulus money and then later from appropriations. I want to stress the bipartisan nature of the commission. It's always been Republicans and Democrats together working on this issue, because, I mean, passenger rail transportation, you know, you are all on the committee. It should be kind of boring. (Laugh) You know, it's a transportation mode. But passenger rail has been one that our states found had been overlooked, that there was benefits between especially 100 to 600 miles, developing corridor service with multiple frequencies, and our states have seen that when you do that, passenger rail ridership really does respond. Even without capital improvements, states such as Illinois who doubled their frequencies, have seen ridership really soar through the roof, over 200 percent increase over five years on their Chicago to St. Louis line, and similar-type ridership increases from other developments. So, now there are certain states that are developing their lines. Chicago to St. Louis is kind of the flagship one. It will have 110-mile-per-hour service in about a year or two. It's begun the track improvements and they will increase their frequencies as well with that service. This is on existing track predominantly, so I look at the Midwest as a very practical...it's a 3,000 mile system, 15 corridors, and it can be developed for about the same price as a proposal for a new runway at O'Hare. So, it's really a dynamic system. States are seeing that people are taking the train when they are afforded those frequencies. We also have done a lot at the federal level to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

develop that federal partnership. That's one of the main foundations of the commission is developing that federal partnership so that states have the opportunity to partner with the federal government for those capital investments and have been successful in that. So we travel to Washington, D.C.; the commission has within its dues from each state, which has not gone up since the inception of the commission, pays for commissioners to come to the meetings and pays for all their travel and lodging, etcetera. So, it is a small amount that each state is committed to. But Nebraska...and Nebraska has been involved. Senator Loudon, I want to just let you know that Senator Stuthman did come to commission meetings quite often when he was appointed; Senator Cornett has come to several commission meetings. She wasn't able to come to the last one. But we do have other avenues for the commissioners to work together whether it be on spurring federal legislation or it be on working on helping understand what the states' potentials are for the states. We never force a state to do anything. We're not the ones that make you decide to make that capital investment. What we do is provide you the information so that you know what the potential is and what the avenues that are available out there. So I wanted to let you know those two things, and also at the last, say that there is great economic development potential for Nebraska and for all the Midwestern states in building out what's called the Midwest Regional Rail Initiative, that 3,000 mile system. It would bring more than 20,000 jobs annually during construction, approximately 75,000 permanent new jobs. Nebraska would benefit through the Omaha development of the station and the resulting development around the station, and you would get more frequent passenger rail service from Omaha to Chicago. The system does envision four frequencies a day and it would be at a shorter time than it currently takes with the one long distance that's part of the long distance service you have now, so. And it would be new service to Des Moines. So you could get to Des Moines in about two hours, and to Chicago in about seven hours. And while you're doing that work, you know, be productive in whatever you're doing, and it would be faster than driving. So there are significant things for Nebraska in this, and certainly we would hope that Nebraska will want still to have a voice within the commission. We stand together as a region having all of our states together. South Dakota has not joined. It's one of only two states in the nation that doesn't have any passenger rail service currently, so it's not really one that we've pressed on, because they are kind of probably in the future to do. But we do have 11 states and we do hope that Nebraska considers staying in to be part of that education, to be part of the understanding that is among the states in the commission. [LB747]

SENATOR FISCHER: Okay, thank you very much. Thank you for being here today, Laura. Are you from Illinois, is that correct? [LB747]

LAURA KLIEWER: Yes. Our office is based in Illinois, yes. [LB747]

SENATOR FISCHER: Okay, so welcome to Nebraska. [LB747]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

LAURA KLIEWER: Thank you. [LB747]

SENATOR FISCHER: You're welcome. As I'm looking through the information you handed out, you handed out this, is that correct? [LB747]

LAURA KLIEWER: Um-hum. [LB747]

SENATOR FISCHER: On this, the front cover, we see kind of a map of the smaller area than the 11- or 12-state area, but we have a green line coming into Omaha and that's for the rail service that would be at 79 miles per hour, top speed, is that correct? [LB747]

LAURA KLIEWER: That was what was envisioned. You have to understand, as I'm sure you do, that there's several stages to any study. The Midwest Regional Rail Initiative did an overall study for all the Midwestern states, made kind of foundational decisions on this is what could be and this is what we as all the states would like to see happen. [LB747]

SENATOR FISCHER: So this is off of those initial ideas that the commission has come up with. [LB747]

LAURA KLIEWER: Yes. This was an economic impact study that the Midwest Regional Rail Initiative did a few years ago. [LB747]

SENATOR FISCHER: And we have Sioux City, Blair, Lincoln, Nebraska City, St. Joe, Topeka, then they all are connecting by a bus route, is that correct on here? [LB747]

LAURA KLIEWER: That was what it was envisioned. And you had mentioned that there were stages, you know. [LB747]

SENATOR FISCHER: Um-hum. [LB747]

LAURA KLIEWER: And so the original was that there would be initial build-out of some of the states that were kind of more ahead. Illinois, Michigan, and Wisconsin had already invested in passenger rail so they could kind of hit the ground running and do construction pretty much right away, whereas other states then...it was a 10-year plan, and it was contingent on federal funding which we have now begun to receive through the High-Speed Intercity Passenger Rail Program and the TIGER funds that states have applied for. [LB747]

SENATOR FISCHER: And are those new tracks being put in from Des Moines into Omaha on this, do you know? [LB747]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

LAURA KLIEWER: It's on the Iowa intercity...Iowa rail. [LB747]

SENATOR FISCHER: Existing? Are there existing tracks? [LB747]

LAURA KLIEWER: I believe it is existing, yeah. [LB747]

SENATOR FISCHER: Okay. The gentleman before you talked about Chicago to the Quad Cities. [LB747]

LAURA KLIEWER: That's right. [LB747]

SENATOR FISCHER: And that would start this spring. Does that mean that those will be new tracks that are going to be put down? [LB747]

LAURA KLIEWER: No. That's existing track as well. But it hasn't had passenger rail service, in that it will be improving tracks. I mean there are some places that new tracks might need to be in any one of these, but it's largely on existing rail. There haven't been a lot of places where they have to build new tracks. And that's one of the reasons why it's relatively less expensive. But even building new track is, as long as it's in the same right-of-way, there has been double tracking that Illinois is doing, planning for. [LB747]

SENATOR FISCHER: Are these existing tracks currently used by private companies, or have they been abandoned. [LB747]

LAURA KLIEWER: It's a mix, I would say. [LB747]

SENATOR FISCHER: Do you work with private companies, the compact at all, with...? You know, we have UP headquartered here in Nebraska and Burlington Northern, which are huge freight lines, both of them across the state. [LB747]

LAURA KLIEWER: Um-hum. Right. Sure. [LB747]

SENATOR FISCHER: Do you work with those companies at all in looking at how these tracks are used? [LB747]

LAURA KLIEWER: We have relationship with them, but it's not our responsibility; it's the state's responsibility. They've developed relationships. Like Missouri and UP have a...Union Pacific provided some of the funding, match funding, for what is being developed on the St. Louis to Kansas City. They're addressing some of their choke points, and so UP is partnering and providing some of the match for that and they've developed that relationship. [LB747]

SENATOR FISCHER: Okay. As you know, infrastructure funding is hard to come by and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

it's very expensive to fund any kind of infrastructure, so as a state, we, of course, need to be careful with our money as we do at the federal level. I notice in this handout that you gave us, we're looking at the current service between Chicago and Omaha is 8 hours and 29 minutes. With the express that I think is proposed by your group, it's cut down to 7 hours and 2 minutes. [LB747]

LAURA KLIEWER: Right. [LB747]

SENATOR FISCHER: But the auto drive time is 7 hours and 32 minutes. [LB747]

LAURA KLIEWER: Um-hum. [LB747]

SENATOR FISCHER: So to save 30 minutes we're looking at what in cost? [LB747]

LAURA KLIEWER: Well, it's...I would say, first of all, it's saving more than time, because there are environmental benefits, there's transportation benefits to having multiple modes of transportation. So I can't tell you, and I apologize, I don't have the numbers of what it will eventually cost to build out Chicago to Omaha. As was mentioned before, Iowa is currently undertaking the preliminary engineering in Tier 1 NEPA study for the whole line. So that will get a better...they'll get a better, true understanding of the full cost. [LB747]

SENATOR FISCHER: But it could be...since it stops at Omaha and we're the hub... [LB747]

LAURA KLIEWER: Um-hum. [LB747]

SENATOR FISCHER: ...or, we're not the hub, we're an end point. Chicago is the hub, so we're just, you know, out in the hinterlands. I'm from rural Nebraska, I know what that's like. So we're out in the hinterlands then in Omaha. Would Nebraska have to pay for any of this, like those across...the track that goes across Iowa? Or do we just get to benefit because of the stop in Omaha? [LB747]

LAURA KLIEWER: Um...it's... [LB747]

SENATOR FISCHER: This might be worthwhile for us for \$15,000 a year. [LB747]

LAURA KLIEWER : (Laugh) Well, the \$15,000 a year, again to clarify, is for the states to work together to make sure that you understand all the advantages of passenger rail that work on advocating it on the federal level and for state elected officials to have that regional voice. We certainly...that certainly won't pay for the construction of anything in Nebraska. There will come a time where Nebraska will need to decide whether it wants to participate to be the terminus, because Iowa is not going to pay for a station in

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

Omaha. So, certainly there will come a time for that. But it will be you-all's decision. Iowa wants to make sure I think it goes to Des Moines, at least, because they don't have any passenger rail service to Des Moines at present. So having that at least to Des Moines is something that they would like to see. But they are doing the study for the whole line. [LB747]

SENATOR FISCHER: But I didn't realize Iowa has no passenger service to Des Moines. [LB747]

LAURA KLIEWER: No. [LB747]

SENATOR FISCHER: We currently have that in Omaha and Lincoln though, don't we? [LB747]

LAURA KLIEWER: Yeah, but only once per day, part of long-distance service. [LB747]

SENATOR FISCHER: I don't think there's too many people riding the train, though either, but we'd have to look at those numbers. [LB747]

LAURA KLIEWER: Yeah. I mean there is an exponential difference between...and even ridership on long-distance service has...people are taking that. And I can certainly give to the committee, I have with me today, but I didn't make copies, of ridership information on both the corridor service that is largely state supported which is the 100 to 600 mile, but it's really there where the states have said we want more frequencies that people start taking the train because they have options. One train at inconvenient hours isn't going to...it still gets people taking the train, but it's not like having multiple frequencies and being able to go to Des Moines and back, you know, four times a day, or to Chicago four times a day or, you know, St. Louis to Chicago eight times a day, that kind of thing. [LB747]

SENATOR FISCHER: I appreciate it. And we can have the pages make some copies if you want to give them that. [LB747]

LAURA KLIEWER: Okay. [LB747]

SENATOR FISCHER: They can make copies, at least one copy, if you have a lot of information there. We can make at least one copy for the committee. That would be very helpful to us, I think. [LB747]

LAURA KLIEWER: Sure. Okay. I will definitely do that. And I would like to mention that my officers have sent you a letter and that I would like to be recorded in the testimony that the dues issue was brought forward. It is correct that Nebraska hasn't paid dues since...FY 2009 was the last year. And the commission would like to work with the state

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

on that. We don't want to kick you out; we want to keep you in the compact, and we have been made aware that there are private and other entities that would like to support this and would be willing to help the state so that we hope that... [LB747]

SENATOR FISCHER: Well, we appreciate your offer for that. Thank you so much. [LB747]

LAURA KLIEWER: Yeah. [LB747]

SENATOR FISCHER: Are there other questions from the committee? Senator Campbell. [LB747]

SENATOR CAMPBELL: Thank you, Senator Fischer. I'm going to repeat an earlier question that I'd asked Senator Hadley,... [LB747]

LAURA KLIEWER: Sure. [LB747]

SENATOR CAMPBELL: ...and that is, as I now understand only one state has left the compact and that was South Dakota. [LB747]

LAURA KLIEWER: They never joined. A compact, you have to pass enabling legislation. South Dakota is within the compact itself able to join the compact, but they never have. So they didn't drop out. [LB747]

SENATOR CAMPBELL: Okay. In the newspaper article, and I'm just trying to check on the validity of that, it talked about that there were other states that had also lapsed in paying their dues. Is there anyone else behind like we are? [LB747]

LAURA KLIEWER: No. [LB747]

SENATOR CAMPBELL: Okay. So Nebraska is the only state that has let its dues lapse of the 11. [LB747]

LAURA KLIEWER: To that extent. I mean it's...there...yes, all the other states have paid through FY 2011 and so we're now in FY 2012, so the current fiscal year we're still getting our dues in. So, you know, I wouldn't comment on that because states can pay anytime within the fiscal year. But up through FY '11, Nebraska was the only state not to have paid for FY '10 and '11, and... [LB747]

SENATOR CAMPBELL: Okay, because the...I'm sorry, go right ahead. [LB747]

LAURA KLIEWER: I was just going to say, and then we were...and we were informed that it wasn't in the budget for FY 2012-13 either. So we had communicated with the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

MIPRC commissioners and the Governor and the Speaker just to let you all know that we do want to dialogue about this. And so maybe this is the forum for dialogue. [LB747]

SENATOR CAMPBELL: Are there any other state legislatures that have legislation like Senator Hadley's bill that would withdraw from the compact? [LB747]

LAURA KLIEWER: Any others? Not that I know of. Any states to withdraw from the compact this year? No, not that I know of. [LB747]

SENATOR CAMPBELL: Okay. Thank you. [LB747]

SENATOR FISCHER: Thank you, Senator Campbell. Senator Price. [LB747]

SENATOR PRICE: Thank you, Senator Fischer. Thank you for coming and testifying. The question I have is, you talked a couple times about studies, the studies with Missouri and the studies in Iowa. [LB747]

LAURA KLIEWER: Um-hum. [LB747]

SENATOR PRICE: Can you tell me the size of those studies, the dollar value? [LB747]

LAURA KLIEWER: Sure. I have a whole...(laugh). I have a table... [LB747]

SENATOR PRICE: Just a ballpark, the lowest study being \$8,000 and the most being \$25 million. [LB747]

LAURA KLIEWER: Yeah, okay. Well, one that was mentioned is the service development plan for extending the Heartland Flyer which currently terminates in Oklahoma City, a service development plan to extend it up to Kansas through Wichita and Newton and then over to Kansas City. Kansas got funding from the federal government for \$250,000 to do the service development plan, which basically shows you what the options are. It's a detailed study to then be able to move forward into the actual engineering and environmental work. [LB747]

SENATOR PRICE: I understand that. So were there matching funds required to any of these? [LB747]

LAURA KLIEWER: Yes. They...that planning...planning at the federal level usually requires a 50-50 match. [LB747]

SENATOR PRICE: Okay. [LB747]

LAURA KLIEWER: And so they did a 50-50 match. That's the same with Iowa. The Iowa

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

plan for new service that's...I mentioned the service level Tier 1 NEPA between Chicago and Omaha and would do preliminary engineering. That was a million dollars that was received from the federal government and then matched, a million, by other sources in Iowa. [LB747]

SENATOR PRICE: Okay. I just wanted to know that range, so thank you very much. [LB747]

LAURA KLIEWER: Um-hum. [LB747]

SENATOR FISCHER: Thank you, Senator Price. Other questions? I see none. Thank you so much for coming in today. I appreciate the information that you brought us. [LB747]

LAURA KLIEWER: Thank you. [LB747]

SENATOR FISCHER: Next opponent to the bill, please. Good afternoon, Senator Schimek. Nice to see you back. [LB747]

DiANNA SCHIMEK: Good afternoon, Madam Chair and members of the committee. It is a delight to be here. I didn't know I was going to be here for this bill yesterday. I just found out about it last night. But I was going to be here anyway for a bill a little bit further down your agenda, so I'm going to briefly comment on this bill, because I was very involved in this issue. I sponsored the bill that actually established the compact. [LB747]

SENATOR FISCHER: I do need you to spell your name. [LB747]

DiANNA SCHIMEK: I'm sorry. For the record my name is DiAnna Schimek, capital D-i-A-n-n-a S-c-h-i-m-e-k. And it is a pleasure to be here with you. It's fun to be back. [LB747]

SENATOR FISCHER: Nice to see you. [LB747]

DiANNA SCHIMEK: But anyway, the bill was introduced and passed, and Senator Bromm and I, and I believe Senator Bromm was the Chair of the Transportation Committee at that time, but he and I were the first two appointed to serve on the commission, the compact commission. And I can tell you that we worked pretty hard on that commission. I even did, a couple of times, something that I really don't like to do and that is go pound the pavement at Washington D.C., to talk to our representatives. And, you know, it was good to do that and something that's necessary, and the compact does try to keep a relationship with the federal government. My only purpose in being here is to tell you that originally when that bill passed, the cost of being a member in the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

compact was \$25,000 a year, because there were only five states. And the promise was that as we gathered more states, the costs would go down. And that is what happened. Once we got to the 11 it went down to \$15,000. It's a bare-bones budget; there aren't any frills in it. And I really think that for that small price it is good for us to know what's going on nationally and in other states, and it forms kind of a solid group to plan and to make those kinds of contacts that need to be made. So I would also say to you that I believe it was that first year, or maybe it was the second year, one of those years we had difficulty getting the appropriations and we had a private entity that paid part or all, I don't recall again, of those dues. And so I do think it is possible that that could happen. I don't think that is an ideal way to operate. If we're state government and we think it's something important, I think we should pay it. But sometimes in order to keep things running, you have to do that. So that's the only thing I wanted to say. I think it's a good organization. And I think, particularly since we don't really have what you call a Department of Transportation, we have a Department of Roads which its primary focus is on roads, and so it's good to have some kind of an entity in the state that is paying attention to what's going on in rail transportation in other areas. So, with that, Madam Chair, that's...I conclude my testimony. [LB747]

SENATOR FISCHER: Thank you, Senator Schimek. Are there any questions? Senator Louden. [LB747]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Well, Councilwoman Schimek, thank you for being here today. [LB747]

DiANNA SCHIMEK: It's a pleasure. Thank you. [LB747]

SENATOR LOUDEN: As councilwoman on the Lincoln City Council, do they have any...have they done any studying to see about any rail service between Omaha and Lincoln, since they're building their sports arena and a few things like that? Has that been on any discussion? [LB747]

DiANNA SCHIMEK: As you know, I'm very new and I don't know of any studies. But I know there's been a lot of discussion of some kind of rail service between Lincoln and Omaha. I don't think anything has been formally studied in a number of years. But I think that there are so many people who commute between Lincoln and Omaha, for one thing, that people think that it would probably be a used service. You also have football weekends, which a lot of people I think would take trains on those football Saturdays. And the arena will certainly attract people from outside the city from Omaha. So I hope that we can keep that issue front and forward so that as we move along we can consider those kinds of things. [LB747]

SENATOR LOUDEN: Well, I agree and that's...as I stated earlier. The next question. The years that you were on that compact and served on that, like this little piece of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

paper we got here come out from the Rail and Public Transportation Division, all those years were they ever involved with you in any of this compact meetings or anything like that? How involved did the Department of Roads get mixed up in some of this rail transportation? [LB747]

DiANNA SCHIMEK: You're asking me to search my memory which is sometimes not as good as it used to be, Senator. But I believe, at least on one or two occasions, there was attendance by the department. There was also...the other representative at that time was the United Transportation Union, Ray Lineweber at that time, and he attended often. So there was usually pretty good representation from Nebraska. [LB747]

SENATOR LOUDEN: And there was people that did some work on this as far as your meetings and interact with the other states that were working on it together? [LB747]

DiANNA SCHIMEK: Some of us, yes. [LB747]

SENATOR LOUDEN: Yeah, okay. Well, thank you, and I agree, I think we need to keep tuned in on this, because there's going to be a chance in the future when we need to be looking at some of this rail service and we've got the railroads across there, and I guess the other deal is we might not haul coal forever across those railroads that we have in place now, so. Okay, thank you for your testimony today. [LB747]

DiANNA SCHIMEK: Thank you. [LB747]

SENATOR FISCHER: Thank you, Senator Louden. Other questions? I just have a comment. Senator Louden alluded to the fact that we have rail lines across the state and we might not be hauling coal. Has there ever been any discussion through this compact to extend rail, passenger rail service across the state of Nebraska, or has it just been to end at the hub in Omaha? [LB747]

DiANNA SCHIMEK: I believe I'm correct in saying that to the hub in Omaha with the exception of the possibility of some kind of feeder line from Lincoln because of the activity between. It would be wonderful to have it clear across the state, but I don't believe, at least at this time, probably a study would show that the ridership would be there for that kind of thing. [LB747]

SENATOR FISCHER: Right. The way I understand it, everything is feeding into Chicago from this compact, correct? [LB747]

DiANNA SCHIMEK: Um-hum. Well, and then...and then from Chicago, you know, because you have all the eastern seaboard... [LB747]

SENATOR FISCHER: Right. But it's to move east, not west. [LB747]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

DiANNA SCHIMEK: Correct. [LB747]

SENATOR FISCHER: Because of population. [LB747]

DiANNA SCHIMEK: Correct. [LB747]

SENATOR FISCHER: Right. Okay. Thank you. Other questions? I see none. Thank you. Nice to see you. [LB747]

DiANNA SCHIMEK: Thank you. [LB747]

SENATOR FISCHER: Any other opponents to the bill? Could I have a show of hands of how many others wish to testify? One more? Okay. Oh, I guess...I'm sorry, I thought we were seeing someone come up too. Good afternoon and welcome. [LB747]

ROBERT KUZELKA: (Exhibit 8) Good afternoon, Senator Fischer and members of the Transportation Committee. My name is Bob Kuzelka, K-u-z-e-l-k-a, a good Swedish name. (Laugh) I live at 1935 A Street, and I'm in Senator Avery's district. First of all, I want to congratulate and thank Senator Hadley for bringing this forward. This maybe is the most discussion this compact has had since the time when Senator Schimek and her colleagues introduced us into the compact. We need to be in the compact. And let me say that you've had a lot of discussion so far about costs and cost benefits and all these things, but the purpose of this bill, as I understand it, is not to discuss those aspects, but whether Nebraska should be concerned about passenger rails in our economic future. And if we are, we should be in the compact. It's as simple as that. I took part in a Webinar with the Midwest Interstate Passenger Rail Commission not too long ago and heard from a variety of states close to Chicago. But I also heard from a state to our south, Kansas, who has spent quite a bit of money because they see economic future in extending a rail line that now runs from Dallas to Tulsa on up to Newton, Kansas, and to Kansas City. They see this as a real plus for their state. Is it any more of a plus for that western state than it is for us? You've talked about Chicago as the hub, but what about Denver? I take the train frequently to Denver because it is a very pleasant overnight ride. You get to Denver in the morning and you can start work right away after a great breakfast on the train. So we need, as a state, to be concerned about passenger rail, and one way to do it, since we don't have a Department of Transportation, as Senator Schimek pointed out, is to maintain our membership, not only paying dues but making sure that our appointed senators attend those meetings. That organization has a lot to offer us. It can answer the questions you were asking today about cost benefits. Without our participation in it, we can't find that out as easily. One of the most disappointing thing in that Webinar was to learn that Lincoln will no longer be the only city in the nation building passenger rail cars. We are now. The Kawasaki plant here is the only passenger rail manufacturing plant in the United States.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

Very soon another Japanese company will be building one in Illinois. And why not? Wouldn't you build your passenger rail plant where passenger rail is important? I urge you to kill this bill. But I urge you more to take advantage of the fact that Senator Hadley has brought this before you and that this Transportation Committee not restrict themselves to airlines and roads, as important as those may be, but to passenger rail. The state of Nebraska was built on passenger rail. We wouldn't be here if it weren't for passenger rail. We wouldn't have the development we do. Isn't it going to be sad if a state that depended upon it then, and will again, withdrew from a compact that would keep them involved. Thank you. [LB747]

SENATOR FISCHER: (Exhibits 4 and 9) Thank you very much. Are there questions? I see none. Thanks for coming in today. Any others opponents? Any opponents to the bill? I do have two letters. One was mentioned earlier, it is from the officers of the Midwest Interstate Passenger Rail Commission in opposition to LB747. The next is from Milo Mumgaard who is a senior policy aide to Mayor Chris Beutler of the city of Lincoln in opposition to the bill. Anyone wishing to testify in the neutral capacity? I see none. Senator Hadley, would you like to close? [LB747]

SENATOR HADLEY: Senator Fischer, members of the committee, I'll be brief. I truly believe the last speaker did an excellent job of laying out the issues that we're looking at here. And it really isn't the \$15,000 a year. It is whether we should be a member of the compact or not. And I think that is what we should decide and to me that is a policy issue for the state of Nebraska and for this committee to decide. And we've kind of defaulted the last four years on that and I think we need to have that discussion, that discussion amongst this committee, and if this committee makes whatever decision it does, potentially looking at the full Legislature looking at that. So thank you, Senator Fischer. [LB747]

SENATOR FISCHER: (See also Exhibit 20) And thank you, Senator Hadley. With that I will close the hearing on LB747 and I will open the hearing on LB896. And welcome again, Mr. Vaughan. [LB747]

DUSTY VAUGHAN: Thank you, Senator Fischer and members of the committee. For the record, once again, my name is Dusty Vaughan, spelled V-a-u-g-h-a-n and I'm the legal counsel for the committee. The motor vehicle franchise system of distribution is regulated by franchise laws, franchise laws in all 50 states. As the result of differences in the bargaining power of dealers in comparison to the manufacturers, it is occasionally necessary for the Legislature to pass laws limiting the power of manufacturers regarding certain industry practices. LB896 addresses a few current practices by some manufacturers regarding payments of incentives to dealers and audits of those incentive payments. Incentives may be in the form of consumer or dealer rebates, or direct payments to dealers. Several manufacturers have engaged in the practice of aggressive audits of these payments. Legitimate claims are charged back for minor or technical

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

variations from the claims process. Some manufacturers summarily take these amounts from the dealer's account prior to any applicable appeals being completed. The bill limits the time for payment of the incentives, as well as the time for audits to be conducted. It also requires the manufacturer to allow the dealer an opportunity to correct and resubmit a disallowed claim. Finally, the bill prohibits the manufacturer from withdrawing the dealer funds until the appeals process has been completed. I do know that there is a representative from the dealer industry here to advocate for this bill, so I'll end my testimony and answer any questions, Senator. [LB896]

SENATOR FISCHER: Thank you, Mr. Vaughan. Questions? I see none. Thank you very much. First proponent for the bill, please. Good afternoon. [LB896]

LOY TODD: Good afternoon. Senator Fischer, members of the committee, my name is Loy Todd, that's L-o-y T-o-d-d. I'm the president and legal counsel for the Nebraska New Car and Truck Dealers Association. I first want to thank Senator Fischer for introducing this bill at our request. You might recall last year we had a very extensive franchise revision bill in front of this committee that was advanced to the Legislature and passed and became law. Well, just when you think you've finished your work, surprises come along and that's what happened here. And we really appreciate the committee's work and the efforts made last year. It was only about 30 days after the session was over that I got a call from one of my dealers in western Nebraska who was undergoing an extensive factory audit of incentives--incentives like discounts or dealer rebates for sales volume, or it could be a consumer rebate, those kinds of things that happen. Our law addressed very well warranty audits and how to handle that. Unfortunately, we didn't cover incentive audits very well. And in the industry it's not unusual to have laws that cover that. So I got a hold of my national association and asked for a few good examples and they sent me Ohio, Alabama, Hawaii, and a few others, just how to structure it and how people were getting along. I also took the opportunity to work on this over the summer with John Lindsay who represents the Alliance of Motor Vehicle Manufacturers which is a large coalition of the manufacturers, and attended some meetings this summer with their representatives; told them we were going to do this; thought we had things pretty much worked out. We had a conference call early this year. I did a first draft, sent it to them; they hated it. We had a dozen or so of them along with John Lindsay on the conference call, and we worked out everything, at least we thought we did. And so as this bill is introduced, it really was introduced as the compromise. And I'll be very brief with what it does. It requires the manufacturer to pay any incentive within 30 days of their approval. They're in charge of the approval. If they don't approve it, they certainly don't have to pay it, they can just reject it. It also requires them to review it and make a determination within 30 days of the submission in its proper form. So the manufacturer can simply say, it's not in the right form, resubmit, do whatever. And this bill further allows the dealer to resubmit it. Some factories simply wouldn't let them do this. My case that I was talking about where my western Nebraska dealer was being audited, it was amazing to me because it was a longtime audit, it was

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

over several years. And it ended up being hundreds of thousands of dollars in incentives. The dealer in that case, I'm confident, I talked to his attorneys, I looked at the matter, there was no question that the customer got the incentives, but it wasn't in the proper form. And the last I talked to their attorneys they were seeking an injunction to stop the manufacturer from going in and simply tapping the dealer's funds because the manufacturers have that right to actually go in, in many cases to simply go in and take the money out of the dealer's account. And so that is an ongoing issue. So one of the things that we are providing in this bill, which is similar to many, many states, is that until the appeals process is completed, there is no right for the manufacturer to withdraw the dealer's funds until that dispute is cleared. So we think this is a very fair bill. As I indicated, there were over a dozen people on the telephone call. We got it worked out; it was introduced. One party was not at the meeting, was invited but just didn't participate, and that was a representative from Global Automakers, which is...they represent many of the foreign manufacturers, not all of them by any means. And there were foreign manufacturers took part in our meeting. And much to my surprise, today, about an hour before this committee met, I received a copy of a letter that I think you all got, and it doesn't appear to be in opposition. It seems to be saying that 45 days would be nicer than 30, which...I have to tell you, in the original draft I put they had to pay it within 30 days of our submission, which they were unhappy with, as I expected. And I certainly don't want them to have to be in a position where they're doing something they can't do. Doesn't do us any good at all to set up a statutory method that is impossible for them to comply with. And I can tell you, everybody else said the two 30-day provisions are fine, the one year look-back period for an audit to limit that, so we aren't talking about multiple years. This was worked out. And it is absolutely taken out of so many other states that, quite frankly, I was surprised. And in Mr. Fry's letter he also indicates some confusion about what approval would mean. Well, the bill says approval by the manufacturer; it's their approval, so if they don't approve it, that's up to them. So from that standpoint I would request that you look at the correspondence from Global in light of the language of the bill and recognize that it's really been worked out. Forty-five days is not appropriate simply because everyone else has come to the table; it's copied from other laws. I don't remember all my research, but I can't remember seeing 45 days anywhere, and I looked at a lot of states. So, with that, I can tell you that we still stand ready to work with them if there were a real problem in any way. I'm informed that the Alliance of Manufacturers represented here in this state by Mr. Lindsay are not going to testify. There are factory representatives in the room who are not going to testify. We worked this out. I would truly appreciate your support for this legislation. It will help us to move on down the road and clear up a problem that we have. [LB896]

SENATOR FISCHER: Thank you, Mr. Todd. Questions? Senator Hadley. [LB896]

SENATOR HADLEY: Thank you, Senator Fischer. Mr. Todd, I guess just for my own knowledge, where you have a company that might basically manufacture many different lines of vehicles and literally separate companies, are they generally covered under a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

master agreement, or is there an agreement with each of the, kind of, you know, maybe BMW owns two or three other car manufacturers, and how does that kind of work where you have one manufacturer or two or three? [LB896]

LOY TODD: The world sort of divides into two groups, as I understand your question. The first would be a manufacturer will have a separate franchise agreement for what they sell. So, for example, you're a Ford dealer, you have a franchise agreement directly with Ford. Now Ford has other products, let's say Lincoln, Mercury. There would be a separate franchise agreement normally for those other products. So one dealer may have Ford and Lincoln and what used to be Mercury. Whereas, another may have Ford alone. And now there are...if it's not confusing enough already, then there are manufacturers that will have separate, what we call line makes, under a single franchise. So there can be some overlap. But typically, when you see a logo, a national logo that you're used to seeing, Ford, Toyota, GM, Buick, whatever, that's usually a separate franchise, one separate contract, an individual basis with each dealer that is authorized to sell and service those vehicles. [LB896]

SENATOR HADLEY: So did at one time Ford own Jaguar or, for example, so they would have had separate... [LB896]

LOY TODD: Yes. [LB896]

SENATOR HADLEY: ...franchise agreements for Jaguar and a separate for Ford and Lincoln. And would General Motors be the same that Buick, Chevrolet, Cadillac? [LB896]

LOY TODD: All of your examples, there would be a separate franchise agreement for each of those for an authorized dealer. [LB896]

SENATOR HADLEY: Okay. Thank you, Mr. Todd. [LB896]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I see none. Thank you, Mr. Todd. [LB896]

LOY TODD: Thank you. [LB896]

SENATOR FISCHER: (Exhibit 10) Other proponents for the bill? Are there other proponents? Are there any opponents to the bill? I see none. Anyone wishing to testify in the neutral capacity? The letter that Mr. Todd referred to from Global Automakers from Gordon Fry, the director of state relations, I'm going to enter that under neutral testimony because it does not say if it is in favor or opposed to the bill, but it states that we would support amending the 30-day figure and suggest a 45-day time frame would be appropriate. So with that suggestion, I'm going to enter it into neutral testimony. Any

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

other testimony on the bill? We will waive closing. I will close the hearing on LB896. We open the hearing on LB889, and we will wait until Senator Avery is here. Welcome, Senator Avery. Good timing. [LB896]

SENATOR AVERY: Hope I didn't keep you waiting. [LB889]

SENATOR FISCHER: No, no, excellent timing. Good afternoon and welcome, Senator Avery. [LB889]

SENATOR AVERY: Thank you, Senator Fischer. For the record my name is Bill Avery, B-i-l-l A-v-e-r-y. I represent District 28 here in Lincoln. This is my first time, I think, before your committee, Senator. [LB889]

SENATOR FISCHER: Well, welcome. A special welcome to you then. I can't believe we let you in. [LB889]

SENATOR AVERY: (Exhibits 11 and 12) I can't believe that you kept me out so long. I bring LB889 for your consideration to correct what is a rather serious problem in Lincoln with the near absence of cab service. Lincoln is on the brink of what economists would refer to as economic takeoff. It aspires to be, at least, a grown-up city where people enjoy visiting, doing business, attending entertainment events. Just to give you an idea of some of the things that we do in this city that attract people from the outside: We are building right now a new \$150 million Haymarket Arena that will seat 16,000 people. It will be the home of the Huskers basketball team. This development has spawned three new hotels in the west Haymarket, either under construction or being planned. We recently, the Legislature gave Lincoln the authority to change its bar closing time to 2:00 a.m., so there's more bar activity than before. NU joined the Big Ten and is building a significant expansion to Memorial Stadium which will expand seating to over 90,000 people. We host annually the National Guard's marathon; it brings about 12,000 people to the city. We hosted the Special Olympics in 2010; that brought about 25,000 people to the city. We have girls' state basketball tournament, boys' state basketball tournament, and that brings in hundreds of thousand of people as well. The list is long. These are significant attractions. They bring thousands of visitors to our city, but when they get here our cab service is anything but grown up, and I think that it's, quite frankly, embarrassingly inadequate. We have one cab company doing business in Lincoln under three different names. Last May, Servant Cab, which is kind of the parent cab company, admitted in a petition to the Public Service Commission that it was operating just 12 cabs in Lincoln and that's in a city of approximately 250,000 residents--and that seems to me to be unacceptable. I introduce LB889 to address the inability or the unwillingness of this company to serve our community's needs. I am convinced that we must alter the licensing process in order to create the opportunity for more competition in the market. Competition always permits the market to select the best product or, in this case, the best service for the best price. And I'm sure that you agree with me on the value of

markets. This bill does three things. First, it redefines taxicab to split this out from the definition of common carriers, because common carriers in the current law includes movers of household goods. We're not interested in changing any of the law relating to trucking and moving companies. Second, it addresses the rate structure mandated by the Public Service Commission. Lincoln's cab fare is absolutely out of line both regionally and nationally. I'll come back to this in a minute, but you will have...you may already have some tables that will give you some idea of what I'm going to say. Finally, LB889 exempts cities of the metropolitan and primary class from meeting the application requirement of public convenience and necessity. Some confusion was raised when we first circulated the green copy of the bill as to which subdivision was being exempted. Let me make it clear that the intent of this legislation is only to exempt the requirement of public convenience and necessity. We have no intention here of changing the requirement that cab service be provided by companies that are fit, willing, and able to provide the service. That should be very clear. All companies must be fit, willing, and able. I reading the terms as specified in current law. What we're trying to do though is to open up competition by removing the public convenience and necessity standard. This is a well-established concept in PSC permitting processes. In determining public convenience and necessity the PSC reviews three factors: (1) whether the operation will serve a useful purpose responsive to a public demand or need; (2) whether this purpose can or will be served as well by existing carriers; and (3) whether it can be served by the applicant in a specified manner without endangering or impairing the operation of existing carriers contrary to the public interest. The existence of an adequate and satisfactory service by a motor carrier already in the area completely negates the public need and demand for added service by another carrier. That, if you read the law and if you go to the law books and you read down into the fine print footnotes, you'll see that that's how this has been interpreted in the courts. This standard is, of course, not compatible with market-driven business environments, and that is what I'm trying address. It is an unfair standard on its face. The PSC, because of this standard, has fostered the creation and maintenance of a monopoly in cab service, at least in Lincoln, and possibly in other cities as well. Here is how I believe the process typically works. The new applicant applies to the PSC for a license. The PSC serves notice of the application and alerts interested parties of their right to protest the application. During the protest period, typically the existing company files a protest setting in motion a critical chain of events. The applicant is informed that to get a license it now must appear before the PSC and prove public convenience and necessity. And I stress here that the burden of proof is on entirely the new applicant. The existing cab company is allowed to present their case against the new company and their reasons for barring competitors. Existing companies are prepared, well represented by experienced legal counsel, well-funded, and they have the PSC's regulations on their side since the burden of proof is on the new applicant. The new applicant typically is faced with some pretty heavy expenses. And let me tell you that there are only a handful of attorneys in this state that are knowledgeable in this area of law. The new company has to prove to the PSC that it is not only fit, willing, and able, by

demonstrating a strong financial position, and they have the ability to insure and maintain a fleet of cabs and that kind of thing--and this standard is not that difficult to achieve. Virtually all cab companies can show whether they're fit, willing, and able to provide the service. The problem comes when they are faced with spending upwards of \$10,000 or more to hire legal counsel to help them prove public convenience and necessity. And here is where many applicants drop out of the process. I was told by the Public Service Commission staff that they've had a couple of applicants over the past five years, all of which dropped out when they got to the protest period. They did not know the exact reason why they dropped out. It seems to me to be reasonable to speculate that they dropped out because of the additional cost incurred at the point of having to prove public convenience and necessity. What I'm describing to you is a distorted market. It is not a free and competitive market and that is what we ought to be fostering not only in the cab service business, but throughout our state. In fact, what we have in Lincoln, and perhaps elsewhere, is a noncompetitive market really, one that harbors monopolies protecting some owners over others, breeding price gouging and poor service. This most certainly is not in the public interest. It serves no public purpose. My objective is to introduce into the cab service industry some free market principles--not radical principles; basic competition on rates and basic competition on service. These principles will serve the public good by providing better and more affordable service. The need in this city is great. According to the Lincoln Police Department, over the past three years 86 percent of the DUIs have been issued between the hours of 10 p.m. and 3 a.m. How many of these people would have been in a cab instead of their car if adequate cab service existed in the city? I had an e-mail from a former student of mine at the university who now is a law student on the East Campus. He said that he was out with a friend, I think it may have been during a football game, or a football weekend, and they decided that they were going to stay in the bars late and they were then going to take a cab back to their apartment just off the East Campus. They called more than 20 times to get a cab, waited four hours, at 4:00 in the morning...4:00 in the morning they still could not get a cab even though that when they could finally get through to the dispatch, they would say, yes, we'll have one there in 10 minutes. Never showed up. They finally wound up taking the risky option of hiring a person who was cruising the streets picking up people looking for cabs and couldn't get them, not knowing if that person had a malicious intent in picking them or not, was going to take them out and rob them and dump them somewhere; in fact, they paid \$25 and got home safely. They were lucky. So, can we be sure that a 2-hour-plus cab wait early in the morning didn't compel somebody to drive home when they shouldn't have? I think that's pretty clearly answered. I think you'll hear some pretty chilling stories today from people who are waiting to testify. They will show that we must do better for our citizens. And I'm going to...you will note that this issue is not just about the bar crowd. It is also about the elderly; it's about the poor who can't afford cars; it's about handicapped people; it's about visually impaired people, some of whom are here today. Let me return to the rate structure for just a moment. I was shocked to learn that the Public Service Commission sets cab rates not based on regional or national averages, not based on

the service needs in the city, based on no population numbers or any other rational formula. The PSC sets rates based on exactly what each company petitions for. Basically the rate follows the company. So when Omaha companies report that they have an application before the PSC to do business in Lincoln and that they will charge a much lower rates in Lincoln, they're absolutely right, because they have a rate assigned to their company. It has nothing to do with the service area, nothing whatsoever. They bring their company-specific rate structure with them to Lincoln. Lincoln's cab company reports they have been financial affected negatively by decisions the Legislature made in 2010 to allow HHS to switch Medicaid transport programs resulting in fewer daytime clients for the current cab company here. In response, the Lincoln cab company raised their rates to \$5.35 for the drop rate--that's when you drop the flag or that's basically what it costs you to get in the cab, and then they added on, of course, a per mile charge. This per mile charge is \$3.90. That means that for a one-mile cab ride in Lincoln you will pay \$9.25. Take a look at what you have before you there. We're number one, but I don't think that's what we want to be number one in. But we're number one. We beat out Los Angeles, we beat out Houston, we beat out Miami, and when you compare us to cities of our own size, we're far and away higher in per mile cost. And you compare us to cities that are twice and three times our size, we're far and away more expensive. So I call your attention to those charts that I provided you to show that there's some pretty alarming numbers in how Lincoln compares with fares in other cities around the country. It's apparent that our cab company is a leader in the cost of fares. I am told that there has been some concern raised with the language in the green copy of the bill that would allow the PSC to only set maximum rates; that's what I'm proposing rather than have the PSC say this is your rate, you can't charge anything more and you can't charge anything less. Why not have the PSC set the rate and say this is your maximum. Then you can have competition below that number for fares based upon a more competitive rate. The company can now charge up to that set ceiling, but could potentially charge less and increase their business. I don't know what the objections are to that language in the green copy, but we have people here, I believe from the PSC, who might be able to answer that. It's very important that we have a discussion on rates. And I would point out to you that the licensing process that I'm talking about with the PSC, has been on the books for a long, long time, but I don't know if we've ever had a legislative review of this. I don't know if we've had a legislative discussion of whether this law is still appropriate for the way we should be doing business today. It is my belief that in the free market where competition thrives, rates will be determined by what the market will bear: a basic principle of capitalist economies. If we focus on opening competition to those companies who are fit, willing, and able, I believe the fare structure will take care of itself. I would also note that the lack of adequate cab service is in no way limited to our late night crowd. It extends, as I indicated, to others, and I will look forward to hearing their testimony, because I think that you're going to be alarmed at some of what you hear. I would also note that if you go downtown today, you'll probably see a lot of cabs on the streets. I find that interesting. It is not typical; it is far from typical. It is a reaction to this bill. If we fail to act, it is my belief that those cabs will

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

disappear because there will be no competition for service or for rates, and the company that is currently serving this city will go back to its old practices because now they think they're home free again. We need to amend our common carrier statutes in order to restore competition to our cab service market and restore the free market to our city. If we do not, subpar service will not end. Now, I like to look around downtown and see all those cranes. This is your hometown, Senator, or it used to be, and you probably also like seeing all the economic activity in Lincoln. If we want to continue to strive, if we want to be a grown-up city we have to act like one and provide grown-up services. Thank you. [LB889]

SENATOR FISCHER: Thank you, Senator Avery. Are there questions? Senator Campbell. [LB889]

SENATOR CAMPBELL: Thank you, Senator Fischer. Senator Avery, I'm going to ask you a question that I've been asked about the rate and you said you thought there might be some questions on it. The question I had is I understand in the bill that you can set a maximum rate, but as that cab is going down the street they may say, oh, I'm going to pick up Senator Price and I'm going to charge him "X," and they go down the street and another, they deliver him and then they come and they see me, but I looked really crabby that day, and so they decide to charge me more than Senator Price. I'm not sure in the language of the bill it clarifies that they can't change per customer, which in some people's eyes may be discriminatory. [LB889]

SENATOR AVERY: I admit that that is possible. I'd like to think that our cab applicants and whoever we might manage to introduce into the market would have better business ethics than that. But I would work with this committee if you want to come up with some new language that would avoid that. You know, there are in some countries, I know in Peru they have something they called "colectivos" where people will actually just roll down the streets in these beat up old vans and they'll just pick up all kinds of people. By the time you get to your destination you've got 15 people in the "colectivo" with you. And if you don't yell loud enough and get the Spanish right, you may not get off where you want to be. But, you know, I can't see it getting that bad, but there has been some discussion in my office of possibly going to what is called a jitney cab system, you know, where you kind of privately license one or two people to have a cab and maybe you get 20 or 30 single cab companies. I don't know if that's the direction we want to go. [LB889]

SENATOR CAMPBELL: I just think the language may need some clarification. I'm not saying that any or all of the companies would do it, I've said. But it is a question that has been posed. [LB889]

SENATOR AVERY: And I think the staff of the PSC would be happy to work with you on that. Mr. Breiner is very, very knowledgeable in these issues and so is Mr. Hybl. [LB889]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

SENATOR CAMPBELL: Thank you, Senator Avery. [LB889]

SENATOR FISCHER: Thank you, Senator Campbell. Senator Price. [LB889]

SENATOR PRICE: Thank you, Senator Fischer. Thank you, Senator Avery, for bringing us a bill that fills the room. In exploring this issue, I don't know whether we're casting stones or not. I think there's too much of that goes on. But in getting spun up on this, I see one common thread and that is the PSC, you know, as I've read through this. The PSC is supposed to let the public and other entities know when there's a problem, it's my understanding. And as I listen to other people, people said, well, we didn't know there was a problem in Lincoln. I'm not going to define that it was a problem or not. And what you talked about, that closed off system, I think we do that in multiple areas where we don't let our businesses have competition with one another. I mean we do that in a lot of different businesses. My understanding is the PSC is supposed to let people know when there is a problem. So we don't know what rises to the PSC's problem level threshold. And that the other vendors would have been over here, like I like to say, pretty quick had they known there were systemic failures or problems. So part of what we see here in this mad dash to get licensed here is we don't know. We just don't know what the PSC process is and what do we need to do to make sure that they're a little more responsive. And so...but when you talk about setting prices, and I'm going to ask your input on this, and I'm going to get to something here, you set a threshold price, but my inputs don't follow that. Fuel costs change daily, sometimes by 15 cents a gallon. So there has to be some ability for...would you not agree, or how would you approach, the ability to have a business in a fair and legitimate manner address the costs that change over a period of time? If those input costs change, I only get to make a buck. I'm going to be out of luck. [LB889]

SENATOR AVERY: The PSC does allow companies to get approval for an energy surcharge. And that surcharge...and, well, you know the price of gasoline per gallon varies, as you pointed out. But if you...I think the current cab company in Lincoln now has a 90-cent per passenger, I'm not sure about whether it's per passenger or per trip--probably per trip, a 90-cent surcharge on the fare. And I would expect that sometimes that more than covers the increased cost of gasoline, other times it may not. But over time it might even out. But to go back to your comment about the process of figuring out when you have a problem, the PSC responds to complaints. I'm not sure that the average customer of the cab company in Lincoln is aware of the complaint process. Now I know that they're supposed to post inside each cab a notice about how you can go about making a complaint. I don't know where they're posted; I don't know if they're prominently displayed. They probably should be and they probably are supposed to be. I don't use cabs so I don't know to what extent they are complying with the rules on that. But it seems to me that when you have a problem to the extent that we do here, and I'm telling you the response has just been overwhelming in my office from the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

public. Then when you have a problem that extensive, it has to be tapping into something that's pretty serious and real. [LB889]

SENATOR PRICE: I don't disagree with you. I just want to make sure that we understand how we define a problem so that it's not hearsay. Okay. [LB889]

SENATOR AVERY: And that's the problem and that is a difficult situation, because, you notice, I didn't show you any data because most of the data is anecdotal. I can tell you a dozen anecdotal stories, and I did tell you one, and there will be many more anecdotal stories. We have been trying to gather some systematic evidence from the bar owners and they may be able to shed more light on that. [LB889]

SENATOR PRICE: Well, the thing that you had, and I'll be done, is the idea of when you talk of evidence. I mean, do you know whether or not the PSC has the authority to request the in-service records and the financial records so they can actually see cabs per day on the road per hour? And that way if you say, as you posited earlier, of a number of cabs being on the road today, and you went and looked back over a two-year period and found out that there was a systemic plan, I mean that would be evidence, you know, when you look at in-service hours and things of that nature. [LB889]

SENATOR AVERY: I would hope that's available and I'm sure there will be people following me that if it is available they'll know. [LB889]

SENATOR PRICE: Okay. Thank you. [LB889]

SENATOR FISCHER: Thank you, Senator Price. Senator Hadley. [LB889]

SENATOR HADLEY: Senator Fischer. Thank you, Senator Avery. I guess this is a question to the people that are going to be testifying. I guess I would like someone to explain to me why the rates in Lincoln are 80 percent higher than the rates in Omaha. I just find that absolutely... [LB889]

SENATOR AVERY: I can give you...my opinion is, we don't have any competition here. [LB889]

SENATOR HADLEY: Well, that just seems like just a remarkable difference to me, in two cities 60 miles apart. [LB889]

SENATOR AVERY: And if you have a monopoly, there is no incentive. There is no incentive to be... [LB889]

SENATOR HADLEY: Okay. Well, I hope somebody would address that when they come up. And the second thing is more of just a comment. At times, flying in and out of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

Lincoln and flying in and out of Omaha, I'm always amazed at Omaha, the line of cabs waiting at the airport for people to be picked up. And I've often wondered if I flew into Lincoln at 10:00 at night and was trying to find a taxicab, I don't believe I've ever seen a taxicab at the Lincoln airport. I could be wrong. [LB889]

SENATOR AVERY: And try calling one. And if you get an answer, call me, because you won't get picked up. I'll go pick you up. (Laughter) [LB889]

SENATOR HADLEY: Okay. That's just more of a comment of flying out of Omaha and flying out of Lincoln. I see a marked difference in what I see the cab coverage at the airports. [LB889]

SENATOR AVERY: Well, if I may, Senator, with your indulgence, I have some car rental rates here. You can rent a car for an entire day for what it would cost you to take a cab from Fallbrook, just north of Lincoln, to downtown. You could rent a car for the entire day. But if you've been drinking, you couldn't drive it. (Laughter) [LB889]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I see none. Thank you, Senator Avery. [LB889]

SENATOR AVERY: I'm staying, by the way, to close and to listen to the important testimony that follows. [LB889]

SENATOR FISCHER: We would only hope that you will. Okay, thank you very much. Could I see a show of hands of those who are here to testify on this bill today? Okay, we have quite a few. I am going to use the light system. You will have three minutes to testify. After two minutes the yellow light will come on. And when the red light comes on, I would ask that you wrap up your testimony. We have a number of citizens here today. If any of you would request help with the sign-in sheet or with the lights, please let us know and that's why our pages are here, it's to assist you. With that we will start with the proponents. And, Senator Schimek, nice to see you again. [LB889]

DiANNA SCHIMEK: (Exhibit 13) Thank you, Senator Fischer and members of the Transportation and Telecommunications Committee. My name is DiAnna Schimek and I wish to testify in support of LB889. As you may know, I've recently been appointed to the Lincoln City Council, and as part of that responsibility I've been asked to serve on what is called the Internal Liquor Committee, which is a subcommittee created by the Lincoln City Council to consider public complaints concerning liquor licenses and liquor-related offenses and to make recommendations to the city council on such matters. The ILC is composed of three of the seven council members and serves as an advisory body to the city council. It does not have the authority to make policy for the city of Lincoln. During the last several months, the Internal Liquor Committee has been reviewing the adequacy of taxicab service in the city of Lincoln because of the impact

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

that the lack of cab service may have on the issue of driving while intoxicated and similar alcohol-related offenses. The ILC has received numerous complaints from downtown business owners, patrons, out-of-town visitors, and others in the community regarding the lack of taxicab availability in Lincoln during the late evening and early morning hours. In addition to the lack of service, particularly during weekends, the ILC has also received complaints about the high fares that are being charged by Lincoln taxicabs. Since it has become public that the city of Lincoln and the members of the Legislature were pursuing this issue, the members of the city council have been contacted by citizens concerning a broader need for taxicabs in Lincoln. We have heard reports from individuals who have been unable to rely upon taxis for transportation to and from medical appointments, as well as to and from the Lincoln airport. Furthermore, when service is provided, customers have complained that the rates currently being charged are excessive. As a city of over 260,000 citizens, with expanding business, educational, and entertainment offerings, Lincoln's needs for taxicab service have apparently risen above and beyond the current limited service being provided. Together with Adam Hornung and Carl Eskridge, my fellow Lincoln City Council members who serve with me on the Internal Liquor Committee, we seek your support for LB889. And I would like to add my personal thanks to Senator Avery for bringing this bill to the Legislature because I think it is an important issue for the city of Lincoln, if not others. Thank you, Madam Chair. [LB889]

SENATOR FISCHER: Thank you, Senator Schimek. We do have a letter from the city of Lincoln from Mayor Beutler and I'll enter that into the record at this time too. Are you testifying on behalf of the city council? [LB889]

DiANNA SCHIMEK: Not really, because the bill came up when we didn't have time to pass a resolution. So this is from the Internal Liquor Committee. [LB889]

SENATOR FISCHER: Okay. Okay. [LB889]

DiANNA SCHIMEK: And I thought that maybe somebody was going to be here from the city. [LB889]

SENATOR FISCHER: Okay. I'll wait then on the mayor's letter. [LB889]

DiANNA SCHIMEK: Okay. Thank you. [LB889]

SENATOR FISCHER: Thank you for clarifying that. Any questions? Excuse me, Senator Schimek, you can't leave yet. Senator Dubas has a question for you. [LB889]

DiANNA SCHIMEK: Oh, I'm sorry. Okay. [LB889]

SENATOR DUBAS: Thank you, Senator Fischer, and thank you, Councilwoman

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

Schimek. Has the city of Lincoln...I know you're relatively new to the council position, but to your knowledge has the city done anything to actively recruit additional taxi businesses or to address the specific current concerns? [LB889]

DiANNA SCHIMEK: Well, I think you've heard testimony that getting...the direct answer to your question is, I don't know, but even if they had, they have that current statutory language which is a hurdle once they get to the Public Service Commission. So I don't know if they have, but I know that the problem has been recognized. I mean, everybody in Lincoln knows that we have no cab service sometimes. It's been that way for a long time, so. [LB889]

SENATOR DUBAS: I'm aware of what the Public Service Commission's role is; I just wondered has the city, recognizing that, you know, this really has an impact on a lot of things that go on in the city, if there has been any formal action that they've taken. [LB889]

DiANNA SCHIMEK: Yeah. No, I don't believe so. [LB889]

SENATOR DUBAS: Thank you. [LB889]

SENATOR FISCHER: Okay, thank you, Senator Dubas. Other questions? I see none. Thank you very much. [LB889]

DiANNA SCHIMEK: Thank you. [LB889]

SENATOR FISCHER: Next proponent, please. [LB889]

DON WESELY: (Exhibit 14) Madam Chairman, members of the Transportation and Telecommunications Committee, for the record I'm Don Wesely, D-o-n W-e-s-e-l-y, lobbyist on behalf of the city of Lincoln. I am handing out to you a letter from Mayor Beutler on behalf of the city of Lincoln supporting LB889, and we thank Senator Avery for his efforts on this issue. Because time is short, you've got a lot of people in here that are going to testify here, I won't read the letter. I will just tell you that there are a number of reasons why we believe this issue needs to be addressed. Senator Dubas, you've hinted at that. You can see that there is the question of public safety: when people who are not able to drive home can't get a cab. You have the issue of economic development: when you have visitors and they can't get a cab to come in from the airport, as Senator Hadley asked that question. We do have that issue come up. And we have other concerns as well, and feel that this bill will help us address them. In answer to your question, I will tell you, knowing from my days as mayor, we knew there was a problem with taxis, but I know we didn't pursue it and I don't think actually the city has pursued efforts to try to recruit additional taxi service. What has happened is a groundswell in just the last month. It's been phenomenal. And we can clearly see this is

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

a pent-up problem that now has found a release through this legislation, and you'll be hearing lots of people tell you about that. And so the city will be supporting...this letter will talk about later on the city will be supporting efforts by other taxi companies before the PSC through the current process to try and get them to be allowed to serve the public in Lincoln. I'd be happy to answer any questions. [LB889]

SENATOR FISCHER: Thank you, Mr. Wesely. Are there questions? I have one for you. Do you have access to the bill there? [LB889]

DON WESELY: I don't. I'm sorry. [LB889]

SENATOR FISCHER: Could I have a page get a bill to...give it. Use Senator Campbell's. I do have a question on here, on page 10 of the bill. Current language is that "the applicant is fit, willing, and able properly to perform the service proposed." I take that to mean that there is insurance and also that it is a safe vehicle that people are getting into. [LB889]

DON WESELY: Um-hum. [LB889]

SENATOR FISCHER: Do you...and then when the new language exempts Omaha and Lincoln, basically, from that. Senator Avery in his opening talked about in Peru people piling into vans and being conveyed to wherever they were headed. Do you see that maybe as a problem here in Lincoln in opening this up, that as long as anybody...I can show I have insurance, I have a safe vehicle, I'm going to be able to drive up and down the streets of Lincoln and start accepting fares, or in Omaha. Do you think maybe that's a problem and maybe we should work in trying to address that? I see that as an issue. As you know the Public Service Commission exists to protect the safety of the traveling public in this instance, so that is a concern to me. [LB889]

DON WESELY: Senator Fischer, you make a good point. And I do think Senator Avery would agree, this issue came up late and we drafted a bill and had it introduced, and there will be refinement needed to make it work right. [LB889]

SENATOR FISCHER: Okay. And you had talked about maybe the city working with the Public Service Commission on issues here. Would you be able to work with the Public Service Commission without a change in statute? [LB889]

DON WESELY: We're concerned about that with some of the standards that are in here, so that's why we think a bill is probably necessary. You'll hear from the PSC, maybe later, and we'll see if they think it's possible. But we feel that a change in the statute probably is going to be necessary to actually proceed. But if not, that would be great if we could take care of it administratively. [LB889]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

SENATOR FISCHER: Okay. I see a representative from the PSC, so if he could address that question when he comes up I'd appreciate it too. [LB889]

DON WESELY: You bet. [LB889]

SENATOR FISCHER: Okay, thank you very much. Other questions? I see none. Thank you. [LB889]

DON WESELY: Thank you very much. [LB889]

SENATOR FISCHER: Thank you. Next proponent, please. Good afternoon. [LB889]

SCOTT HATFIELD: Good afternoon, Madam Chairman, members of the committee. Thank you for your consideration today. My name is Scott Hatfield and I own Duffy's Tavern at 14th and O Street here in Lincoln, and I'd like to talk to you about your support for LB889. [LB889]

SENATOR FISCHER: If you could spell your last name, please. [LB889]

SCOTT HATFIELD: H-a-t-f-i-e-l-d. [LB889]

SENATOR FISCHER: Thank you. [LB889]

SCOTT HATFIELD: (Exhibit 15) I hope today that you'll hear testimony of both facts surrounding the cost of taxicabs in Lincoln and, of course, the anecdotal evidence from people regarding their experiences with taxicabs. These experiences are unfortunately the results of a system that is broken. Much of the blame has been cast on the Public Service Commission, but I want to point out that in my dealings with the commission, I found them to be both professional and well informed; yet, under the umbrella of current state law, the Public Service Commission their best intentions are trumped by an antiquated model for the cities the size of Lincoln and Omaha. Obviously, there exists a disconnect between what is really a public convenience or a public necessity. First, some anecdotal evidence of my own. In front of my business we have two designated taxicab-only parking spots. The Lincoln police, the city of Lincoln, the Public Service Commission at a request have taken measures to ensure that these spaces remain open for taxicabs on their designated times Thursday through Saturday. Yet regardless of our appeals, the taxicab company refuses to pick people up in front of our location, asking them to walk where the cabs might be and then forcing them to wait with others who are in the same situation. And when a taxicab does arrive, there's no priority to find the people who called for the cab. There's merely a free-for-all of desperate people trying to get home, trying to get out of the elements and hoping that a ride might come. If the ride does come, the patron is met with prices that are some of the highest in the nation, more than New York, more than Miami, more than Phoenix, and almost double

the cost of getting a cab in Des Moines. An example, which I will submit to you, which comes from a Web site called Taxifarefinder.com shows of the 93 cities they follow, Lincoln is the ninth highest, Des Moines is ninety-first. Simply put, the prices are outrageous. As an issue of public safety, accessibility to taxicabs is critical. In downtown Lincoln, bars are expected to refuse entry to obviously intoxicated people, and we do this all the time. We tell people that they need to stop drinking, they need to sober up, we can't let them in, or that they need to call it a night. But where do we send these people? We turn them away from our door, yet we know that in many cases they are in no state to contemplate the long wait of more than a hour and a cost of more than their entire weekend budget. Dispatchers regularly tell us that the wait will be over an hour; during busy times the wait exceeds two hours. Yet even with the exorbitant wait times, there's no guarantee of a pickup because, again, the taxicab drivers cannot communicate directly with the patron. One might suggest that these problems are simply an issue where we need to appeal to the Public Service Commission to enable more operators to exist in Lincoln and Omaha, but with due respect to the commission, current state law has left Lincoln with a dearth of options, both day and night, for safe and cost-effective transportation. The status quo is not working and any new license applications are met with costly legal challenges. What has been created is a de jure monopoly. The results of this monopoly are obvious: exceptionally long wait times, even throughout the day; exceptionally high prices, as I mentioned earlier; and exceptionally poor service. All of this is the result of the particularly un-American government-granted monopoly that exists--a monopoly which is stifling free and fair competition at the expense of the consumer and at the expense of public safety in our larger cities. The only fix is to allow competition to flourish and open up this market and get rid of the monopoly. So time's up so I'll kind of wrap it up there. [LB889]

SENATOR FISCHER: Thank you very much, Mr. Hatfield. [LB889]

SCOTT HATFIELD: Thank you. [LB889]

SENATOR FISCHER: Are there questions? I see none. Thank you for coming in today. [LB889]

SCOTT HATFIELD: Thank you. [LB889]

SENATOR FISCHER: Next proponent, please. Are there other proponents? Yes, please come forward. Yes, that would be great. Good afternoon and welcome. You can just...you're right in front of us and please tell your name and your testimony then. [LB889]

HARDY HOLM: Okay. My name is Hardy Holm and I... [LB889]

SENATOR FISCHER: If you could spell that for us please. [LB889]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

HARDY HOLM: H-a-r-d-y--first name, H-o-l-m. [LB889]

SENATOR FISCHER: Thank you. [LB889]

HARDY HOLM: And I have a vending business. I have vending machines at the main post office and in several state agencies, the Banking Commission and the Department of Environmental Quality and a couple of other places. I used to take a cab a lot to work. Fortunately, for me, the city buses got rerouted to where I don't have to do it so much anymore. But my experience when I did was not always good. I think capitalism without competition never, never, never works. And there have been several people here today that have indicated that we need to make sure that we have safe cabs and people that are vetted. My understanding is that the competing cab companies that are interested are in Omaha, and I guarantee that they have been providing services up there for a long time and it's been working for them. As a matter of fact, although I haven't worked in Omaha, I have been with friends of mine up to concerts at the Qwest Center on several occasions in recent years, and I was amazed at not just how cheap the cabs were up there compared to Lincoln, but how quickly they came. They came to the hotel that we were staying at, both times I think it was around 10 minutes. The cab driver said, well, I'll be there in 10 minutes. And lo and behold they actually showed up in 10 minutes. Then I asked the cab driver on the way to the Qwest to this concert, what's the chance that I'm going to be able to get a cab after the show is out? Because, I mean, there's no way you can do a time order. You don't know whether they're going to do three encores or whether it's going to be a short show or it's going to last two to three hours. And here you just have to call when the thing is out and, you know, maybe wait a goodly-long time. He said, I'll give you my cell phone number. And I called him. He said, call me when it's getting close to the end of the show. So I called him when they were on the encore. He said, well, I can be there in 10 minutes. We didn't believe it. But we went outside and there he was. And we had that experience three different times. Now here, this cab company has a policy that has nothing to do with state law or anything else, that they will not allow a cab driver to give you the cell phone. But it's common practice up there. Those drivers, as I understand, are independent contractors and so they are out there hustling for business and they're coordinated through...they can call in and find out where people need cabs and there's a coordination system and that person gets paid somehow. I don't know what the filtering mechanism is. But, hey, Omaha can do this. We can do it too. And the companies in Omaha are interested in coming in here. Unfortunately, we seem to not want to allow them to come in and compete. And I guarantee that if they came in and competed, it would make our cab company better. I have no problem with this cab company. If they compete with the Omaha companies and do just as well, they're going to be successful. If they don't, well, so long, you know. And that's mostly what I have to say. I'm trying to think if I had another little outline or two here. I'll give you an example of a bad experience I had when I was still taking a cab to work quite frequently. This was a few years ago in the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

winter, and I got to thinking, wow, it's going to be really cold tomorrow morning. I had better call a cab. And my experience had been calling them in the morning that it might take hours and hours, and I have deliveries and I have to be there at a certain time and I didn't know if I was going to make it by that time. So I tried calling the day before to put in a time order. And the woman answering the phone at the cab company said, well, we don't take time orders in the winter. To which I said, are you just a summertime cab company? That's most of what I have to say. If anybody has any questions, I'd be glad to answer them and I don't want to take too much time, but, you know, we just need competition. It's going to be good. And good luck to Servant Cab. If they can compete well, that's fine too. I like a lot of these drivers and I have no real complaint with the company, but I think competition would make them better. And I know darn well that the Omaha people know what they're doing on this issue. [LB889]

SENATOR FISCHER: Thank you, Mr. Holm. Are there any questions? I see none. Thank you so much for coming in today. [LB889]

HARDY HOLM: Thanks much. [LB889]

SENATOR FISCHER: Next proponent, please. Good afternoon and welcome. [LB889]

KAREN GOODING: Good afternoon. My name is Karen Gooding, K-a-r-e-n G-o-o-d-i-n-g, and I'm here today to support Senator Avery's bill. I am the owner of a small taxi company out of Carter Lake, Iowa, called City Taxi. Now the reason that we started it in Carter Lake, Iowa, was because it was near to impossible to get into the state of Nebraska to start a taxi company. With all the need and necessity that one has to prove, it is cost prohibitive. You have to come with a lot of up-front money in order to get an attorney, in order to prove the need and necessity. It is restrictive of full enterprise. Now I do believe that the Public Service Commission has the right to regulate the taxi service. I just...I agree with Senator Avery that they need to take out the need and necessity portion of it. You still need to be willing, able, and fit. It is still the Public Service Commission's...they giveth, they take it away. I am a strong believer that general competition increases genuine competition. We started...I started City Taxi in May of last year. It took all of a week, four days to get a license in Iowa to be able to cover the entire state of Iowa. We have taxi vehicles. You do have to have taxi insurance. It's not regular insurance that you go to your Farmers agent and get insurance. You do actually have taxi insurance. We've been able to manage up to three taxis, four taxis at one given time, in the Carter Lake, Iowa, area. We service the five hotels right next to the airport which, in my opinion, have been overlooked by the Omaha taxi companies for several years. I have filed for my authority in the state of Nebraska in July of last year. Finally went to a hearing in December of last year, and I am still awaiting for my authority as to whether it has been granted or not. So you can see after, you know, several attorney fees, nine months of going through the hoops and the loops of everything, why there is no competition for Lincoln nor Omaha. And if you

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

think the Lincoln system is bad, in my opinion, the Omaha system is even worse. They have 30 taxis out at the airport and they are all contracted so there is no way the taxi company can make them go downtown or make them go to north Omaha. I've got a driver here today that will testify as to a pickup that he had last evening and I'll let him go into that. As far as the bill, I do support it. [LB889]

SENATOR FISCHER: Thank you, Ms. Gooding. Very good. [LB889]

KAREN GOODING: Gooding. [LB889]

SENATOR FISCHER: Gooding? Thank you. Senator Hadley. [LB889]

SENATOR HADLEY: Senator Fischer. Ms. Gooding, thank you for being here. Just for my own information, since you're Iowa-based, are you allowed to pick someone up in Carter Lake and take them to the airport? [LB889]

KAREN GOODING: Yes, I can transport individuals from Iowa to Nebraska and from Nebraska to Iowa. [LB889]

SENATOR HADLEY: But you cannot from Nebraska to Nebraska. [LB889]

KAREN GOODING: But I can't...not from Nebraska to Nebraska. [LB889]

SENATOR HADLEY: Okay, thank you. That answers my question. [LB889]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I see none. Thanks for coming in today. [LB889]

KAREN GOODING: Thank you. [LB889]

SENATOR FISCHER: Next proponent, please. Please just step forward. Good afternoon and welcome. We don't see you too often before this committee. [LB889]

HOBERT RUPE: I know. Good afternoon and thank you. My name is Hobie Rupe. I'm the executive director the Nebraska Liquor Control Commission and yes, generally, I wouldn't be coming over to an issue like this. However, just to give you an idea, and you've heard part of it already, so I'm not going to go through it, because I'm not an expert on the PSC regulations and the statutory schemes. I have more than enough on my plate looking at the Liquor Control Act. However, as you'll remember a few years ago, the Legislature gave the commission the power to do certified server training programs--basically, set a minimum of training. And the way we've used that is, you know, it was mostly voluntary or if they've been in trouble with us, we generally make it as a condition to take that. I'm part of the process which reviews all those programs.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

And all those programs have one solid thing that's almost...it's solid all the way through. It's how do you intervene with a customer who might have become overserved. And invariably, they go through the strategies, and one of the strategies they keep pushing is, if they're overintoxicated call them a cab; make sure a sober friend drives them home, and, you know, you've heard that from the bar owners already. And so that's part of the thing we as a commission are encouraging and training bars to utilize. You know, try to intervene; you know, these are customers. It's what we really look at part of what a professional responsible hospitality industry should do. And, you know, just to say that when we say that and we put that out, to hear back from some of the bar owners, especially in Lincoln, that's nice, we wish we could. So we're here because we believe that there is a, you know, how, and if you're going to look at changing the exact language of Senator Avery's bill to make sure it works, what the commission that I represent is here to say is, we believe that adequate taxicab services are an integral part of the safe and responsible delivery of alcoholic beverages. And we would encourage this committee to do a review of that and perhaps forward this to the floor. We think it's good public policy and so that's my position and I would be happy to answer any questions. [LB889]

SENATOR FISCHER: Thank you, Mr. Rupe. Are there questions? I see none. Thanks for coming in. [LB889]

HOBERT RUPE: Thank you very much. [LB889]

SENATOR FISCHER: Next proponent, please. Good afternoon and welcome. [LB889]

JEREMY FIFIELD: Good afternoon. My name is Jeremy Fifield. I am a broadcast major at the University of Nebraska-Lincoln. By the way, that's J-e-r-e-m-y F-i-f-i-e-l-d. And I would just like to talk about the reliability of the cab company, particularly during the night hours, although I realize that having reliability 24/7 is crucial. As you know, a lot of people work at night, including in radio. Radio is a 24/7 business. And for those people doing broadcasts late at night who may have to call a cab company to get home, if those people are stuck waiting for a couple of hours for a cab company, that's less time they have to for one to sleep, if they have class in the morning, like in my case. If they don't want to call a cab for that reason, we tend to have to rely on friends or sometimes even strangers to get us home, and that inconveniences them and inconveniences us. So I think that more cab service would be a very substantial benefit. I also would like to talk a little about the elderly who oftentimes have to wait for a cab when they have to go grocery shopping or whatever it is they may be doing, and especially in the winter when they have to stand out in the cold. And I think better service would certainly benefit them. They would be able to get out of the elements sooner. And I would also like to bring up a point mentioned earlier that capitalism does not work unless you have competition. And I do believe that any cab company coming into Lincoln, including the cab company that is already in Lincoln, would benefit because they would be motivated

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

to provide better service. Thank you very much. [LB889]

SENATOR FISCHER: Thank you, Mr. Fifield. I believe we met at a breakfast a couple of weeks ago. [LB889]

JEREMY FIFIELD: Yes, we did. [LB889]

SENATOR FISCHER: So it's nice to see you again. Thanks for coming in today. [LB889]

JEREMY FIFIELD: It's nice to see you again too, Senator. [LB889]

SENATOR FISCHER: Any questions? Senator Dubas. [LB889]

SENATOR DUBAS: Thank you, Senator Fischer. Thank you, Mr. Fifield, for coming in. You did a great job. Do you rely on taxi service a lot to help you get around? [LB889]

JEREMY FIFIELD: I personally do not, and the reason being is that it's unreliable; it's...or, you know, that's really the only way I can put it. But that's, you know, there are people who would have to rely on it. In fact, last week...I'm taking a broadcast class right now where I have to do a two-hour shift each week on KRNU2. And when I was trying to work out a time to do a shift, I had to try to get a time that was during the day when I could rely on the bus service to get a bus downtown to get to campus and do my shift versus doing it at night. There were a lot of people that the only time they could do a shift was late at night. But if I ended up doing a shift late at night, and I live out on 2420 E Street, which is a considerable distance from campus, you know, if I had to rely on that at night, you know, it would be quite costly, and if I had to rely on friends that would likely inconvenience them and it would inconvenience me as well. [LB889]

SENATOR DUBAS: But if we had a more reliable service in Lincoln, is that a service you think you would avail yourself of? [LB889]

JEREMY FIFIELD: Yes, I would, because I...you know, I like flexibility in, you know, getting around at various times of the day. And I would be very glad to use cab services if they were more reliable and more competitively priced. [LB889]

SENATOR DUBAS: Thank you very much. [LB889]

JEREMY FIFIELD: Thank you. [LB889]

SENATOR FISCHER: Thank you, Senator Dubas. Other questions? I see none. Thank you for coming in today. [LB889]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

JEREMY FIFIELD: Thank you very much. [LB889]

SENATOR FISCHER: Next proponent, please. Be careful of the chair; it swivels. And good afternoon and welcome. [LB889]

JEFF ALTMAN: Thank you. Good afternoon, Senator Fischer. Thank you. My name is Jeff Altman, J-e-f-f A-l-t-m-a-n. I am an orientation and mobility instructor. I work for the Nebraska Commission for the Blind and Visually Impaired. There are a number of issues for blind individuals here in the city of Lincoln, and likely in other places in Nebraska, that interfere with our agency's primary objective which is to help blind folks become working individuals who are taxpayers, rather than individuals who are living on Social Security and other forms of public support. Transportation is probably one of the largest issues for blind people. Here in Lincoln we're seeing a number of issues with regard to the lack of transportation. Public transportation is minimal in most regards. Buses start around 6:00 in the morning and end a little before 7:00. So outside of the normal eight-hour-a-day working hours, opportunities for employment are limited, as far as transportation is concerned, using public transportation. Taxis currently are incredibly unreliable and expensive. With an entry level position, an individual that needs to use a cab to get to and from work is probably going to spend nearly as much riding the taxi to and from work as they earn in the course of their working day. So it's not a very strong encouragement to a person to go to work under those conditions. In addition to that, the ordinary things that you need to do with your daily life, whether it's going to church, going shopping, or any of the other things that you need to do that require transportation outside of the availability of public transportation, or into areas where the bus system simply doesn't run, becomes incredibly difficult for those that are on lower income levels. Now to give you an idea of how the prices have changed, I've been teaching cane travel in the Nebraska Center for the Blind since 1998. At that time, the trip for our students to bring their groceries for training from the grocery store at 33rd and A to the center, which was at 4600 Valley Road, approximately a distance of a mile and a half, was in 1998 about \$4.25. It's currently in excess of \$11 if the cab driver takes their own route rather than the route that I would like them to take. It can be as low as \$9.95, but it is still very expensive to do that particular route. It's cutting into our budget; \$300 worth of taxi coupons used to last a couple of months. Now it lasts maybe three to four weeks. In addition to that, the opportunity for blind folks to be participating members of our community, to go out and go to concerts or to partake of the restaurants and bars in town, is very much limited. So I believe that you really do need to do something that's going to help resolve this issue. And I would hope that you would consider supporting this bill because the status quo is not getting the job done. Also I would suggest something to you. I'm originally from out east. In most major cities, to ensure the safety and awareness on the part of the public that, in fact, the vehicle is genuinely a taxi, they issue a service medallion that has to be displayed on the vehicle. Something along those lines that customers could simply look at and know that that is, in fact, a genuine taxi, would probably do much to resolve the safety concerns that people have. Thank

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

you. [LB889]

SENATOR FISCHER: Thank you, Mr. Altman. Are there questions? Senator Hadley. [LB889]

SENATOR HADLEY: Senator Fischer. Mr. Altman, thank you for coming. I live in Kearney, Nebraska, and we have something called RYDE, Reach Your Destination Easily, which is, through grants and such as that, provides basically bus transportation for people with disabilities to get them from home to work, home to different areas. Does Lincoln have something like that also? [LB889]

JEFF ALTMAN: Lincoln has the Handi Van. Now, at this time, blind individuals do not qualify for use of that vehicle unless they have another disability that limits their mobility. And our agency actually would prefer that people be able to use existing public transportation systems, simply because members of society already have a tendency to believe that blind people have limited capacities, and we would like for blind folks to be able to show to the public that we are able to function as other people do because we believe that will increase the likelihood that employers will hire blind folks. [LB889]

SENATOR HADLEY: Okay, thank you. I was just wondering what you had as compared to ours. Thank you very much. Thank you, Senator Fischer. [LB889]

JEFF ALTMAN: Certainly. Sure. Thank you. [LB889]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I see none. Thank you, Mr. Altman. I appreciate you coming in today. [LB889]

JEFF ALTMAN: Thank you, Senator. [LB889]

SENATOR FISCHER: Next proponent, please. Good afternoon and welcome. [LB889]

MICHAEL FLOYD: Good afternoon. My name is Michael Floyd; I'm from Lincoln. Do you need the address? [LB889]

SENATOR FISCHER: No, if you could just spell your name. [LB889]

MICHAEL FLOYD: M-i-c-h-a-e-l F-l-o-y-d. [LB889]

SENATOR FISCHER: Thank you. [LB889]

MICHAEL FLOYD: Yes. Just...I guess you better clue me in on the lights. I'm not planning to talk that long, but I could get carried away. [LB889]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

SENATOR FISCHER: If you get going too long, I'll let you know. [LB889]

MICHAEL FLOYD: There we are. There we are, okay. [LB889]

SENATOR FISCHER: Okay. Thanks. [LB889]

MICHAEL FLOYD: There were a couple of concerns I heard from the committee that I would like to talk about and I would like to share a couple of quick anecdotes of my own. The issue of safety was brought up, and I'd like to point out that the bill is talking about removing the convenience and necessity standards, neither of which have anything to do with safety. Safety has to do with fitness and ability. So safety regarding the changes in this bill shouldn't have anything to do with it. The other was discrimination. And, you know, in my view having one of the top rates in the country, if not the top rate in the country, that's discriminatory against folks who are unemployed, underemployed, on fixed incomes and so forth. I took a cab recently. I live in the 1800 block of South 24th Street and I was going to the 300 block of West Charleston, which is not that great a ride, however, it was \$15. Now if I was going to Pizza Hut to go to work on a part-time job, I would be...I hope I get to eat on the job because I'd be paying more for taxis to get to the job and back than I would be earning. And by the way, I paid \$25 for the same ride on the way back--but we won't go into discrepancies like that. A number of years ago, the same cab company, my wife and I took a cab one noon to go out to lunch to meet somebody out at Grandmother's, and it was starting to snow that day. As we talked about, this is not a winter cab company, but we did manage to get it, as it was starting to snow. And we were going to go have a leisurely lunch with a friend of ours that we hadn't seen in some time, and we had our lunch and we had a good conversation. And so we began to call for a cab to come home. And it had continued to snow while we were there. The cab company operator said, well, we're kind of busy right now, it's snowing a bit and it will be a bit longer. And I said, well, when? He said, well, I don't know, call back in a little while. So we called back and we kept calling back and we kept calling back--and we did eventually get home about 10:00 that night. After being strung out until 9:00 p.m. at which time they said the cabs couldn't run and we wound up getting home with the services of the Civil Air Patrol. And, you know, I'm sure that's a little bit of an extreme example, but I don't think it's...in spirit, I don't think that's an isolated example of the kind of service that people have come to expect from this cab company locally. So, I would encourage you to do what you can to expand competition and make this a more service-oriented community. Thank you. [LB889]

SENATOR FISCHER: Thank you, Mr. Floyd. Are there questions? I see none. Thank you so much for coming in today. [LB889]

MICHAEL FLOYD: Thank you. [LB889]

SENATOR FISCHER: Next proponent, please. We do have somebody coming up.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

Thank you and welcome. [LB889]

NICK TARLOWSKI: Hello, Senator. Hi, my name is Nick Tarlowski, N-i-c-k T-a-r-l-o-w-s-k-i. I'm a bartender downtown and I wanted to come today before my shift at 5:00 to support Senator Avery's measure. There's a lot of bartenders in the room today to support this. Some of them will speak, some of them may not, they're just here to be here in support. I, for one, may be the only bartender in here that has also worked for the Commission for the Blind and Visually Impaired. I did that in college, so I do know some of the folks over at 4600 Valley and I've driven their professionals; I've read their mail; I've helped them out, and that was my job in college. To be brief, I just want to say that if you talk to any of the bartenders in here who work downtown they'll tell you that the cab system is less than perfect. Obviously, perfect is not necessarily attainable, but we've all given our share of free rides home to people who can't get cabs, who by the time we're closing up our bars at 3:00 and it's snowing outside, we can't just leave them there. And, of course, we don't...you know, I've done this a dozen times, maybe more, just to the people who are stuck and the people who can't get a ride and they're waiting for hours. Football season is a hundred times worse. You watch people walk down the street who shouldn't be driving, but they know they can't get a cab so they will drive anyway. So, I guess from my perspective, it's the addition of competition will make Lincoln a safer place. We hear...and I've heard on NPR, I've heard from even the local news that Lincoln is a heavier drinking town than most. And that's not...I don't know, I guess that doesn't...I guess I don't know where I should go with that, but it's a...(laughter). People are responsible for their own actions, but it's definitely a better thing if they can get a ride and stay out of their own cars. You know, leave your car downtown, leave your car where you're not going to drive it; it's just a matter of public safety. So, with that, thank you very much. Thank you, Senator Avery. I got to go to work. [LB889]

SENATOR FISCHER: Thanks, Nick. [LB889]

NICK TARLOWSKI: Yep. [LB889]

SENATOR FISCHER: Questions? [LB889]

NICK TARLOWSKI: Oh. [LB889]

SENATOR FISCHER: I see none. Thanks. [LB889]

NICK TARLOWSKI: None. All right, thanks. [LB889]

SENATOR FISCHER: Next proponent. Good afternoon, welcome. [LB889]

BRAD LOOS: Good afternoon. My name is Brad Loos, that's L-o-o-s. I live at 2742 Scott

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

Avenue, my wife Barbara and I. I am a member of the Lincoln Chapter of the National Federation of the Blind. And, you know, there was kind of a...somebody talked about the airport earlier and one thing that I'm not sure if it is really connected or not, I've been in a lot of cities where they have a city bus that goes to the airport. But we don't here. I've asked several people, including people at StarTran, but nobody seems to know why we don't have a city bus that goes out there. I have wondered if there's some connection between the fact that the only way to get to the airport and back is the one cab company that has no competition, but I don't know if there's any connection to that or not. By the way, if you would let me know when I have a minute left, since I can't see the light up there, I'd appreciate that. [LB889]

SENATOR FISCHER: I certainly will. [LB889]

BRAD LOOS: And, you know, the only people who think we don't need competition for the cab company in this town is people who either never ride cabs or so rarely ride them it is not a significant issue for them. If you want a cab in the mornings or in the afternoons when kids are coming and going from school, good luck, I mean, maybe you'll get one. If you want one when the weather is bad, when everybody wants a cab, you can forget that idea. When there's a hometown football game going on, there ain't no way you're getting a cab that day. I think that I have myself on occasion waited for hours for a cab. And then again, sometimes you get one right away. It's not that that always happens. Sometimes you get a cab right away, but a lot of times you don't. I mean, and the fact is, you never know. It ain't nothing you can count on. My wife, who is also blind, we walk or take a bus most places where we go. Of course, the buses don't run at night and they don't run on Sundays and they don't run on holidays and so you ain't doing that. Believe it or not, we don't have a babysitter who runs around making sure that all our needs are taken care of. There's no well-meaning expert on blind people who calls us everyday to see if we got anything going on. We take care of our own business. And so I think...you know, I don't understand the business of somebody needing to prove that there's a market. To me that don't seem like capitalism to me. Capitalism is some enterprising person comes in and they start a business and either they're...if they're efficient and there's a market, then the business thrives. If they're inefficient or there ain't a market, then they don't. To me it seems like you're having to prove something that's impossible to prove, and especially if you have to go through all of the money and the legal business and all the rest of it, that don't seem like capitalism. That seems like some kind of protection racket to me. (Laughter) [LB889]

SENATOR FISCHER: You have about a minute left. [LB889]

BRAD LOOS: I don't really understand that business. But anyway, let me say, for my opinion, I definitely believe for those of us who don't drive, there is definitely a need to have more than one cab service in this town. Any questions for me? [LB889]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

SENATOR FISCHER: Thank you very much. Any questions? I see none. Thanks so much for coming in today. [LB889]

BRAD LOOS: Sure. [LB889]

SENATOR FISCHER: Next proponent, please. Thank you. Good afternoon. [LB889]

GINNY MARTIN: Good afternoon. Thank you for listening. My name is Ginny, G-i-n-n-y, Martin, M-a-r-t-i-n. I live in Lincoln. I'm a native Nebraskan, moved back with my family for the quality of life, from Atlanta, Georgia, just a few years ago, and have been an executive of a major employer. I'm here representing myself and my experience with cabs from the Lincoln airport. The first time I tried to take a cab I was ignorant. I got off on the 10:50 flight at night into Lincoln. Hopped out, saw the red coat guys who are just fabulous, and went out to get a cab and there wasn't one. So called a cab, and it was about 40 minutes. So the next time I flew in, I knew my flight was going to be on time into Lincoln. I called the cab company in advance and said we'll be early so there shouldn't be an issue with my not being there; I will give you a credit card in advance; can I schedule you to be there to wait for me? And they said, we don't do that, so you can call us when you get there. So I called them when I got there. It was 35, 40 minutes again, very late at night. You know, those are known flight times full of people. There's not a flight coming into Lincoln that is not generally full. So, one of my roles is to recruit talent to move to Nebraska and to woo them and have Lincoln look great and encourage and show our best face. So after those experiences, what I started doing was asking top recruits who were coming in to evaluate Lincoln as a place to move themselves or their family, and I would ask, what time is your flight getting in? They would tell me. I'd say, well, let me come get you, or let me have someone come get you. And they would say, no, no, no, I'll just take a cab. And I would say, no, you really can't. And that was the first conversation we would have about Lincoln. So it's not good for the people we're trying to bring here. It's not convenient for the people who work here, who are taking flights. And I'm in full support of this bill. I am confident that this group can work out the safety issues. I think there's some really smart people who are working on the bill and in this room, so it has my support and I think we can get the details worked out. Thank you for listening. Any questions? [LB889]

SENATOR FISCHER: Thank you, Ms. Martin. Any questions? I see none. Thanks so much for coming in. [LB889]

GINNY MARTIN: Thank you. [LB889]

SENATOR FISCHER: Next proponent, please. Just to give us some idea, could I have a show of hands yet of the proponents? I see three. Okay. And how many opponents yet to go? About four or five. Okay. Good afternoon and welcome. [LB889]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

TROY FALK: Good afternoon. Thank you for seeing me. I want to thank Senator Avery for bringing this bill forward. My name is Troy Falk, F-a-l-k. I own Doc's Place down in the Haymarket, and I have several stories about trying to get taxis down in the Haymarket area. First of all, on game days you can't call a taxi. I call a taxi for my bar trying to get customers...or trying to get taxis to pick up customers that are in from out of state. Especially with the Big Ten, a lot of them fly in; they can't get to...they want to get to their hotel, they want to get somewhere else. I actually get hung up on by taxi companies. They go, you're in the Haymarket? They just hang up. They won't even send a taxi down to the Haymarket during game days. They do occasionally, late at night, but nothing during the day, nothing early, and then it's still a two- to three-hour wait. That brings me to two specific dates. On...this is in December, both the 10th and the 17th of December, both Saturday nights, people were having their holiday parties and there was a group of, it was like five or six people in each group on each night, that called for a taxi. It was at about midnight they called. And by the time we got the bar closed at 2:30, they still had not been picked up. And due to the number people, I didn't have enough people that could give them a ride home. So I have a vestibule that's part of the building that I can lock them so they can get out, but they can't get into the rest of the building. And I had to leave them there waiting for a taxi after 2 hours and 30 minutes, 2 hours and 40 minutes, because we couldn't get them home. And then on the following Sunday on December 18th, I had a small Irish band in that was doing some Christmas whatever, and they were in and they had called for...there was five of them--no, seven of them...and they had called for a taxi, and instead of sending two taxis, they had them wait for three hours, couldn't get them anywhere, and I finally went and took two trips using my vehicle to drive them to their bed and breakfast at 22nd and B. And then on New Year's Eve I had multiple customers tell me that they wanted to take a taxi down for the whole night because they didn't want to make sure they drove because in case they had too much to drink, whatever. And they were going to schedule a taxi to come down to pick them up from their home, take them down to the Haymarket so they could go around, and then take a taxi ride home. They offered to prepay with their credit card and say, okay, if we want you to pick us up at 1:00, if we're not there at 1:00, you can go ahead and charge us anyway, and we'll call again. They wouldn't take their money; they wouldn't let them prepay, and so that negated them coming down. So we actually lost business from people that wanted to come down that couldn't because they couldn't guarantee that they could get a ride home. And these are just unacceptable and we need to figure out a way for Lincoln to be a grown-up city and actually take care of our own citizens, let alone guests coming to town. And with the arena coming in, and we're part of the Big Ten, and people are going to fly in, we have to take care of these people. [LB889]

SENATOR FISCHER: Thank you, Mr. Falk. Are there questions? I see none. Thanks for coming in. [LB889]

TROY FALK: Thank you. [LB889]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

SENATOR FISCHER: Next proponent, please. Good afternoon and welcome. [LB889]

KIM RINGO-BRIGHT: Good afternoon. Thank you. My name is Kim Ringo-Bright, K-i-m R-i-n-g-o hyphen B-r-i-g-h-t. I am the general manager of Buzzard Billy's and The Starlite Lounge. I really want to thank Senator Avery for proposing this bill. It is such an embarrassment to be in the city of Lincoln and have the cab service that we have currently. My first go-to thing for a customer when they come in and ask me for a cab is, where are you staying at; let's call them and see if they have a shuttle. Because that's going to be much quicker and much more effective than waiting for a cab. That may work part of the time. You know, a lot of the hotels don't have shuttles, or the motels. So then I tell them you have about an hour to wait because that's what it is going to be. Some of them do; some of them find other ways; some of them walk which is safe or not safe, but it's better than just waiting around for a cab. The cab company, typically, maybe 50/50 will call or come in and say the cab is here. Other times they'll just say it's an hour wait, 30 minutes to an hour wait. Well, they'll drive up. If nobody is standing outside, they drive off. Well, do they expect someone to stand outside in Nebraska winters in December for an half an hour waiting on a cab? Three years ago, on Fat Tuesday, I had a gentleman come into the bar that was extremely intoxicated; he walked in. We weren't going to let him in, but it was really cold, it was in February, so we offered to call him a cab. Sat him down and got him some water, kind of baby-sat him the whole time he was sitting there. The cab driver actually came in to get him and when he did, he grabbed the gentleman by the scruff of the neck and drug him out of the bar. [LB889]

SENATOR FISCHER: (Phone sound in audience) It's okay, it's my husband's phone that's going off. (Laughter) I would just like to make note of that...(laugh). [LB889]

KIM RINGO-BRIGHT: You know those husbands. I have one too. [LB889]

SENATOR FISCHER: This is...and I have to interrupt you, I'm sorry. This is my eighth year down here. It's the first committee hearing he's come to and I'm known as being really hard on people on their phones. (Laughter) His just went off. Hi, Bruce. [LB889]

KIM RINGO-BRIGHT: You should know better; you should really know better. (Laughter) [LB889]

SENATOR FISCHER: I'm sorry. Go right ahead. [LB889]

KIM RINGO-BRIGHT: No, you're fine. To get back to what I was getting at, the cab driver did come in, the gentleman was quite intoxicated. He literally grabbed the gentleman up by the scruff of the neck and the arm and started to drag him out of the bar to put him in his cab. My staff intervened and said, you're not treating this gentleman

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

like that, and he was trying to throw him in his cab, like a cop would to a guy that was being unruly. We stopped him, got the gentleman out, and one of my cooks took the gentleman home. And that's the last time I ever called a cab company in Lincoln, Nebraska. My most recently, last week spent a night in Des Moines. We were out downtown having a good time. We asked the bartender, could you call us a cab and give us our tab and she's like, sure. The cab was out front before we paid our tab, (snap fingers), like that. And I was like, why can't Lincoln do this? So it's just...I think that we have really toughened up on the DUI laws this year, really, really toughened up, and so I think we also need to provide the citizens of Lincoln, you know, a way to safely get home to avoid, you know, incurring all those DUI laws that have really toughened up. I agree with the laws, but I think we also need to help the citizens get home. So that's all I have. Thank you. [LB889]

SENATOR FISCHER: Thank you, Kim. Are there any questions? I see none. Thank you very much. [LB889]

KIM RINGO-BRIGHT: Thank you. [LB889]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB889]

BRUCE BOHRER: Thank you, Madam Chair. [LB889]

SENATOR FISCHER: Is your phone off? (Laugh) [LB889]

BRUCE BOHRER: It is on vibrate. Thank you, Madam Chair. Bruce Bohrer, appearing on behalf of the Lincoln Chamber of Commerce, for the record, spelled B-o-h-r-e-r. I hadn't actually planned on testifying today. We had already discussed this, as a committee at the chamber that looks at these issues, and decided we were going to support Public Service Commission filings for more competition. My committee meets on Thursday so I thought I would just wait and get educated today. But I think I've heard enough and I really am kind of moved to get up here to testify in support. I thank Senator Avery for putting this bill in. It's obvious what we've heard from the previous testifiers: We need better service and we need better pricing. In short, we need better competition, more competition in Lincoln. And I also want to make a point, then follow up on a point that Ginny made, a previous testifier. We also need to do this as a city for a better image for all the reasons that have previously stated. We've got a new arena coming on-line. We've got a lot of businesses that actually talked to us about this issue too. And it was, you know, not just the bar crowd. We hear it from people that come in for events, that are surprised, large events that go on for weeks, and are surprised that they don't have any cab service that really is reliable and fairly priced. So we are supportive. I finally just want to corroborate something else. The price of entry, we've got another cab company here or I would say it's a transportation company, an entrepreneur in Lincoln, that is thinking about filing an application with the Public

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

Service Commission. We talked to him just this week. He is concerned about the price of entry. So I don't know if he's going to try to file or not. He was hoping maybe he could just go on the coattails of a previous application. I'm not sure if that's possible though. And I think if you remove this provision for the public convenience and necessity, that would help him. So I'm not sure exactly how you deal with some of the issues you've raised as far as the safety, but I do think you do have a very capable group here. And, obviously, the folks at the Public Service Commission can help in that regard too. So with that I would close unless there are any questions I could answer. [LB889]

SENATOR FISCHER: Thank you, Mr. Bohrer. Senator Campbell, please. [LB889]

SENATOR CAMPBELL: Thank you, Senator Fischer. In discussion that I had last week with, I think we're talking about the same company there,... [LB889]

BRUCE BOHRER: Um-hum. [LB889]

SENATOR CAMPBELL: ...the figure that was quoted to me was by the time it goes through that and if there's an appeal and the attorneys, he said that he thought that it would cost \$5,000 to \$10,000--and we probably will want to ask the Public Service Commission if that's an accurate figure. Is that the figure that he quoted to you? [LB889]

BRUCE BOHRER: No. It was higher than that, actually, and it may not be the same individual. What I had heard was \$20,000 by the time it's all over. [LB889]

SENATOR CAMPBELL: Okay. Thank you. [LB889]

SENATOR FISCHER: Thank you, Senator Campbell. Senator Hadley, please. [LB889]

SENATOR HADLEY: Senator Fischer. Thank you, Bruce, for coming. Just a comment. I think it is important for Lincoln because you are trying a lot of things to bring people to Lincoln, and I just go back to the...I just have thought about getting into the airport at 11:00 at night and trying to figure out what I was going to do if I didn't have my own car there, so thank you. [LB889]

BRUCE BOHRER: You bet. [LB889]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I see none. Thank you very much. [LB889]

BRUCE BOHRER: Thank you. [LB889]

SENATOR FISCHER: Are there any other proponents for the bill? Any other proponents? I see none. We will open it up for opposition. Could I have the first

opponent, please. Good afternoon and welcome. [LB889]

JOHN DAVIS: (Exhibit 16) Good afternoon. Good afternoon, Senator Fischer and members of the committee. My name is John Davis, that is J-o-h-n D-a-v-i-s. I am director of operations for the Happy Cab companies in Omaha, Nebraska. First off, I'd like to thank Senator Avery for bringing this bill to light or bringing this issue to light. Not that, I am obviously testifying in opposition, but I think that certainly I understand the reasons behind this bill is that there's a search for an answer. I'm not here to, I guess, critique Servant. I'm not really familiar with their operations and that's something that I think those folks in the PSC, I'm sure that is something that they will work out. What I am here to do though is to I guess talk about some assumptions. And, obviously, I have sat here today and heard a lot of assumptions about what the reasons are and what is going on with the service, and I guess I want to address a few things. First of all, I think there is a question or a concern that somehow that the need and necessity is a component of becoming a new authority in Nebraska is somehow is unique to Nebraska. Again there are a lot of assumptions. I would encourage each of you members of the committee to, you know, not to take anyone's word but go out and do the research. You'll see that need and necessity is a component of most authorities in markets this size and larger and throughout the country. As a matter of fact, it's something that has been in place for 60 or 70 years, so I don't think that there's an issue with the expectations and with them being broken. I think that, for whatever reason, it's obviously clear that it has not worked well in Lincoln, is that there is an issue, and obviously that they need some additional competition here in Lincoln. I think there is also an assumption that, you know, basically also in the Omaha market that there isn't competition, and I'm going to beg to differ with that. Also that new authorities can't get in. Please examine the PSC Web site. Again, don't take my word, but examine the PSC Web site and note all of the new transportation authorities that have been granted in the last five years. As a matter of fact, in the last month, an applicant with absolutely no form of transportation experience and very little capital was granted an authority to provide rides from restaurants and bar patrons that are impaired that wanted a ride home and the ability to have their car transported to the destination as well. Despite being protested, this authority was granted and it didn't cost them \$20,000 to do that. In my knowledge, in Lincoln, in the last ten years there's been approximately five applications in the last decade. One of those actually went to a hearing. In the interest of time I'm going to try and kind of run through this. There's also the assumption that deregulation is a cure-all to reduce consumer wait times, improve quality, and improve fares. What I've passed out to you is a case study, and I can also provide you with a list to cite of several other case studies. If you go out there and look, and there are several of them out there, they all pretty much have the same themes is that in terms of deregulation, typically what you see is that the market becomes oversaturated, that you end up with a bunch of what we call in the market "onesies" and "twosies," basically operators that have no dispatch system other than they have a cell phone, and basically that they are out, almost they become pirates because they are competing against one

another. Instead of the rates decreasing, typically the rates increase. There's no ability to monitor their time in the seat in terms of how many hours they're working a day, in terms of coverage in the area. The only place where you see an improvement in wait times is in open cab stands like in downtown areas and in airports. Typically, in outlying areas, the areas that don't have a lot of movement, those areas actually end up suffering because the drivers are obviously going to gravitate to those areas where there is a tremendous amount of walk-up business. And then again, the reality is, is that most consumers don't take the time to look at the cab number or to get identifying information. So, typically, when there's a call to complain, whether it be to an authority or be to the Public Service Commission, they really have very little information. And for these providers out there that really it's just one guy and a cab and maybe he's sharing that with another person, there's no GPS information or no way to track that complaint. I, obviously, I've got a number of things to do, but I see that the red light has been on for some time, so I will try and wrap this again. I've supplied you with a case study. There are tons of things that I am concerned about in terms of public safety because there are also issues related to public safety when you talk about having a bunch of small operators with very little regulation in terms of the operators wanting to do maintenance to their vehicles each month. That's something that we take very seriously. On average, we do about \$300 worth of safety maintenance to our vehicles each month. So again, in the interest of time, I appreciate your time and am certainly available for questions if any of the senators have any. [LB889]

SENATOR FISCHER: Thank you, Mr. Davis. Are there questions? Senator Hadley. [LB889]

SENATOR HADLEY: Senator Fischer. Mr. Davis, I probably asked this of a number of people: Why is Lincoln's cab rates 80 percent higher than Omaha? [LB889]

JOHN DAVIS: You know, that is a great question. You know, honestly, I think at the end of the day you would have to ask one of the representatives of Servant. If you're asking me to give my best guess, it's their business model. If you look at their business model, they use employee drivers, and again if you take the time to do the research, in companies or in markets this size or larger throughout the country, 80 to 90 percent of those cab companies are independent contractor models. This uses an employee model. There are a number of reasons why it is very expensive to operate under that model. We have a similar situation in Omaha with Safeway Cab Company, and that's why Safeway Cab Company ended up being sold, and we actually now operate that authority as well, is because that model just doesn't work, especially when you have 30 drivers or less. And that's something that I know that there are other people here that can testify from firsthand experience on that. [LB889]

SENATOR HADLEY: So, just...I somehow take a taxi a lot in St. Louis, and I talk to the drivers, and generally they tell me they basically lease the cab or, you know, they're

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

independent and they pay the taxicab company some fee. And is that what you mean where they're not technically employees, but they're leasing the cab or such as that? [LB889]

JOHN DAVIS: That is correct. They pay a lease; they decide...excuse me, what zones they work in; they decide what hours they work in, and it's really up to them. They manage their own time, and to a certain extent they decide how much income they want to make. [LB889]

SENATOR HADLEY: Okay. Thank you, Senator Fischer. [LB889]

SENATOR FISCHER: Thank you, Senator Hadley. Senator Campbell. [LB889]

SENATOR CAMPBELL: Mr. Davis, what barriers have kept you from coming in to the Lincoln market? [LB889]

JOHN DAVIS: No barriers at all. Quite frankly, we didn't realize that there was an issue such as this. We have never been made aware of that. I certainly wish that we had known. From my perspective, as a fleet operator that operates 200 cabs in the Omaha market, this is a quick fix. You know, now that we're aware, within two days we have been down; we have met with a number of members of leadership here in Lincoln. We applied to have our authorities extended to serve Lancaster County. So, at this point, it's a process. We understand the process. As a matter of fact, tomorrow I have 20 interviews with perspective drivers in the Lincoln area. We have already put our packets together. We put one ad in the paper, and as I said, we have 20 interviews scheduled tomorrow here in Lincoln. So I think it's really a nonfactor. It's just a matter of going through the process and being granted authority. I mean we obviously...we know about opening new convention centers and serving that. We know about opening new sports facilities and hotels and serving that, and that's something we've done in Omaha for four decades. So, you know, it's certainly a process and one that we're very familiar with and we're poised to be able to assist whoever the other authorities are in this market in terms of serving the citizens of Lincoln. [LB889]

SENATOR CAMPBELL: Thank you, Mr. Davis. [LB889]

SENATOR FISCHER: Thank you, Senator Campbell. Senator Hadley. [LB889]

SENATOR HADLEY: Yeah, Senator Fischer, and I just want one more quick question then. If you do start operating in the Lincoln market, will you be required to charge \$5.35 at the drop, \$3.90 for the first mile, per mile, so \$9.25 for a mile? You will be required to charge that in the Lincoln market? [LB889]

JOHN DAVIS: No. That's again...that's another one of those assumptions. That rate is

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

the approved rate for Servant and the cab companies that operate under that. That doesn't mean that I am bound by that. I can apply for any rates I choose to. In our application to the PSC for all five authorities, I think we made it clear in that application that we want to use the same rate structure that we have in Omaha. We think that the market is similar enough, and there will be certainly times where we will cross-utilize our cab drivers from Omaha that are chomping at the bit. They know what the application process is to get what's called a hack license in the Lincoln market. You know, one of the other people that testified earlier mentioned game day operations. Game days in Omaha, you might as well shut the gate on the town because it's really just...it's a slow market. Everyone is either in Omaha or at their house parties or that sort of thing. So, we have no business or no issue or no problem at all with cross-utilizing another hundred cabs if we needed to, to help on game day. [LB889]

SENATOR HADLEY: Just to follow up then, Mr. Davis, so it would be possible on a game day, for example, for you to bring cabs down from Omaha to Lincoln? [LB889]

JOHN DAVIS: Absolutely. [LB889]

SENATOR HADLEY: Okay. Thank you. [LB889]

JOHN DAVIS: Again if granted the authority. At this point we're still in the process. [LB889]

SENATOR HADLEY: Okay, thank you. [LB889]

SENATOR FISCHER: Senator Dubas. [LB889]

SENATOR DUBAS: Thank you, Senator Fischer. Thank you, Mr. Davis. So you said you are in the process now of applying to expand your territory. [LB889]

JOHN DAVIS: That is correct. [LB889]

SENATOR DUBAS: Is that an onerous process? I mean, you're already licensed by the PSC or approved by the PSC; what more do you have to do to expand your territory? [LB889]

JOHN DAVIS: Well, at this point it's something much like the application process is there's a notification that goes out in The Daily Record, lets the stakeholders or people of interest know that there is an application to somehow modify that authority; gives them an opportunity to weigh in and to protest if they choose to. If they do, then there will actually be a formal hearing. We go through the formal hearing, and then obviously the PSC is charged with making the final determination based on the evidence that's presented. [LB889]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

SENATOR DUBAS: Obviously, there's some very legitimate and real concerns that the citizens of Lincoln have raised today, and there's been a lot of talk about the need to change statutes, and the PSC processes may be inhibiting the expansion of markets in Lincoln. Do you think that the statutes as they currently stand are doing exactly what they should do? Would you see some possible changes to maybe address some of the circumstances that have been raised today? [LB889]

JOHN DAVIS: No. At this point I think the statutes are fine. Again, if you do the research, the statutes are pretty much consistent with markets throughout the country. It's just really a process of someone that has a viable business plan that wants to apply and actually go through the process. I don't think it is much different than someone that wants to open a bar. Just because you want to open a bar and serve drinks doesn't mean that you can just go through in four days and do that. There is a process. You obviously have to get a license through the Liquor Commission, and that process is somewhat similar to that. People certainly can protest that and you have to go through a hearing. I previously opened a bar so I'm familiar with what that process looks like. [LB889]

SENATOR DUBAS: Thank you. [LB889]

SENATOR FISCHER: Thank you, Senator Dubas. Other questions? I see none. Thanks so much for coming in today. [LB889]

JOHN DAVIS: Okay. Thank you. [LB889]

SENATOR FISCHER: Next opponent, please. Good afternoon and welcome. [LB889]

LOREN STUTHEIT: Good afternoon. My name is Loren Stutheit, L-o-r-e-n S-t-u-t-h-e-i-t. I'm here to represent the Papiro Transport Service who is a company that did go through the hoops that you are questioning today, and we did obtain a license through the Public Service Commission. I'm here to testify, as I have heard everything today it appears to me that Lincoln has a tremendous problem. However, and also what I'm hearing today is that we want to legislate a problem that we want to kill the Public Service Commission or change the way they do business in order to alleviate a problem in one city. My concern would be, it's kind of like we're using a sledgehammer here to go after a fly upon the corner of the wall. I believe, just as Mr. Davis said, that there is a possibility of a surgical result to this that doesn't mean you have to kill everything. To give you an example, the process that I went through to get the license, I've heard figures batted around, I can tell you that it cost us in excess of \$60,000 to do that. Now a license is very valuable, as far as I'm concerned, after that kind of an investment. You also, in addition to that, you have startup costs. You have to maintain a business probably three to four years before you start making a profit. We look at that and we

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

say, well, why is the Public Service Commission somewhat guarded about granting additional licenses to every Tom, Dick, and Harry that comes along? If you're going to get a quality transportation service company, you're going to have to have one that has the resources; you're going to have to have one that's willing to invest and spend the time and the money and the effort to become one. If we were to remove everything that the Public Service Commission represents, which is kind of what I heard here today, you would have everybody that had one van and \$300,000 worth of insurance out on the streets transporting your people. To give you an idea, my insurance costs run in excess...about \$300 a month per vehicle, roughly about that. Vehicle maintenance, as Mr. Davis quoted, is tremendously expensive. The regulations that we have, actually have worked very well, except in one place, in one city, and that's Lincoln. However, and I think that when we look at the Public Service Commission we say, well, they're trying to protect those people that do have licenses; it's because of the tremendous investment and commitment that those people made to obtain that license, and I will wrap up that as my final comments. But I guess I am in defense of the Public Service Commission and their regulatory powers and I would hate to see them completely wiped out just because of a citywide problem. [LB889]

SENATOR FISCHER: Thank you very much. Questions? Senator Hadley. [LB889]

SENATOR HADLEY: Senator Fischer, thank you. I guess just a question, I guess I'm old enough to remember when the airlines were regulated and we paid a tremendous price to fly, you know, very expensive, and we deregulated. Airline costs have come down. We still have safety procedures, we have other procedures. So if it can work for an airline agency, what would be...it seems like it would be relatively simple for a taxi business. [LB889]

LOREN STUTHEIT: To a degree, I agree that it is something that there are certain parts of this that could work. However, I do know that even in Omaha today we have what we call a jitney service. I, you know, there's no problem getting from point A to point B; it just depends upon the quality of people you want to have transporting you. If you know the right number, you can get a jitney service that will take you anywhere in town for \$5 or \$4 or whatever the going rate happens to be. However, you have no insurance; you have a not very good quality vehicle; you have a driver that you would not want to send your grandchildren with. These are the things that are regulated by the Public Service Commission, amongst other things. Yes, they do have a great deal of power when it comes to granting a license, I understand that. But I think there's a valid reason for that, because I think you need to have people that are committed to doing the job and doing it right; otherwise, you're going to end up with the jitney services that we have in Omaha. There's a jillion of them available. I, for one, am down here and on this bill, now I am not a taxicab company. And so you would say, why am I here? And I'm here basically to testify on behalf of Mr. Davis and Happy Cab, Yellow Cab, Checker Cab, who is my fiercest competition. And yet it's competition in a good way. He transports

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

some of the same people that I transport. Why would I testify on his behalf? Because he provides a good and valuable service not only to the city of Omaha, but to the transportation business in general. And I will tell you that as I applied for a license, years back, Mr. Davis and the cab company were involved in part of the protest because they wanted me to prove that I was fit, willing, able, capable, and committed enough to do it. Now that I've done that, that's where we are. [LB889]

SENATOR HADLEY: Just a real quick follow-up, just in a few sentences, the jitney service. Just kind of what does that mean? [LB889]

LOREN STUTHEIT: Well, that's just a... [LB889]

SENATOR HADLEY: I realize it's a term, but what does it stand for in service? [LB889]

LOREN STUTHEIT: We would liken it to a...in Omaha, it would be a north Omaha service, we might say. You just...if you know the right people you call this number and somebody shows up and takes you where you want to go. [LB889]

SENATOR HADLEY: Takes you where you're going and charges you...do you negotiate the rate with them? [LB889]

LOREN STUTHEIT: Nothing is cleared through the Public Service Commission. Nothing is, you know, and... [LB889]

SENATOR HADLEY: Is that illegal? [LB889]

LOREN STUTHEIT: Yes, it is. [LB889]

SENATOR HADLEY: Okay. [LB889]

LOREN STUTHEIT: And I know that...for instance, I know Bob Harrison has spent a tremendous amount of time trying to resolve this issue, and, you know, it's kind of like you slap a fly here and there's two over there. [LB889]

SENATOR HADLEY: So it's kind of...it's a New York City taxicab without a medallion in a way. [LB889]

LOREN STUTHEIT: There you go. [LB889]

SENATOR HADLEY: Okay, thank you. [LB889]

LOREN STUTHEIT: And I don't want to speak for Mr. Harris, but I do know that it's caused him problems in the past. [LB889]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

SENATOR FISCHER: Thank you, Senator Hadley. Thank you, sir, for coming today. Next opponent, please. Good afternoon and welcome. [LB889]

DON BELLINO: Good afternoon. Thank you, Senators, staff. Senator Fischer, I'd hate to be Mr. Fischer this evening. [LB889]

SENATOR FISCHER: I think I asked him to leave. (Laugh) [LB889]

DON BELLINO: All right. [LB889]

SENATOR FISCHER: Those are the rules. [LB889]

DON BELLINO: My name is Don, D-o-n, Bellino, B-e-l-l-i-n-o, lifetime resident of the great state of Nebraska. Cannot wait for the opportunity to help Lincoln with this...great city of Lincoln with the problem they're having and hopefully we can get that resolved in a few short months. I'll try to get through my points as quickly as possible, hopefully. I operate Donmark, Inc., which is Cornhusker Cab Company in the metropolitan area. I went through the process of the Public Service Commission and was granted an authority to operate a taxicab company in the metro area. At that time there were several very, very well-established cab companies, very financially sound cab companies, politically charged cab companies that opposed my license, but the process ran its course and I was granted an authority. It was brought up earlier about the attorney fees. I had two novice attorneys, one was a government attorney working on a part-time basis, and the other one had no knowledge of the transportation industry. And what I'm saying is that the system kind of worked...that we worked our way through the process, worked very hard on the process, and went through the steps needed to be to get that license. The process was initially very cumbersome. I was actually not pleased with it at all, but after I kind of went through the process and figured out what they were trying to do: They made me prove that we were going to be a safe company; they made me prove that I was financially fit to be there; they made me prove we were going to operate...we had the ability to continue to operate a cab company in a meaningful way. You know, this Lincoln problem, we've applied for our extension of our authority and we'll be glad to bring 20 taxis down here within the first 30 days of receiving the authority. We were unaware of the problem and we're anxious to get down here and try to help out. We currently are 25, to 15, so that would immediately almost double the amount of taxicabs. I will tell you our rates are significantly lower and our application states that we will continue to use those rates that we're currently using in Omaha. We have no intention on changing them, and actually it would be a logistical nightmare to change our meters from one to the other, because on game days we will bring additional cabs down to help with the additional traffic. And we're used to that with the College World Series. And, oh, darn it. If I put a few quarters in here can I go extra? (Laughter) All right. Okay, I'll move on here. All right, well anyway, I will tell you this, I

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

had a small cab company and it took me four years to get to profitability stages of about 30 to 35 cabs. It cost me in excess of \$200,000 to get profitable. So I'm just trying to say those cab companies, when things become less profitable, they start cutting corners, safety becomes an issue, and it was a very, very expensive process to get profitable and to go. So I think the number is about 35 cabs and we're currently operating a very successful operation, been in business for 15 years plus, and we look forward to the chance to serve Lincoln. I would like to address one question that came up. And I'll be as quick as I can. There's 80 percent of the cab companies in this country are run on basically a leased-operator standpoint. And so what that means is they basically pay a weekly rent or a monthly rent. They basically pay a rent payment. And what that is, is that we provide everything from a company, which we have a tremendous liability, a tremendous investment, a tremendous stake in the game, and we provide all their insurance, we provide the vehicle, we provide the maintenance on the vehicle, we provide FBI checks, we provide background checks on all our drivers, make sure they're competent and doing the right thing. And then they pay a specific amount of money to us per week and then they...or this is their own business per se, operate the cab company. And when we get down to Lincoln, and this is customary with our people, is that they hand out their cards and our drivers have their cell numbers, which you can call directly to the driver and bypass the dispatch system to create better service. [LB889]

SENATOR FISCHER: Thank you, sir, very much. Senator Hadley. [LB889]

SENATOR HADLEY: Just a...thank you, Senator Fischer. Just a quick question. Would that be chaotic in Lincoln if we had two or three or four cab companies, all of them charging different rates, and so it depends on which one I happen to call whether I pay 80 percent more, because you're going to charge the Omaha rate and I call a Lincoln cab company and I pay 80 percent more because I called the Lincoln? [LB889]

DON BELLINO: That is a very good point. Yeah, that is a very, very good point, and I guess the answer to that is, is that if I pay less, would I be offended? And it was stated earlier that...I mean, we are backed up at the airport because those guys are trying to get runs. And so our rates are different in Omaha because, for instance, like from Omaha to the Hilton is a flat rate. And if you go to Omaha to a west Omaha Best Western, it's a different rate as far as...it's all a flat rate, you know, so we do have different pay scales already, if you're following what I'm saying. If you take...we're only, like \$2, a little over \$2 a drop when you're picked up, and about, roughly about \$2 a mile. But what I'm trying to say is, that would be more costly than if you just took the flat rate. So in Omaha we already have different rates per se, depending on where you're coming from and where you're going to. I think, honestly, there will be a little bit of confusion, but if I paid a little less...or actually a lot less, I wouldn't be offended. [LB889]

SENATOR HADLEY: Okay, thank you, Senator Fischer. [LB889]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I see none. Next opponent, please. Good afternoon. [LB889]

STEVE MASON: (Exhibit 17) Good afternoon, Senator. Senator Fischer, members of the committee, my name is Steve Mason, that's S-t-e-v-e M-a-s-o-n. I'm an independent insurance agent. I started in this industry in 1971, and for the past 24-plus years I've worked for the Forsyth Insurance Agency that's here in town. For well over a quarter of a century I've provided insurance coverage for a variety of ambulances, charter buses, taxicabs, limousines, para-transit companies. And this time I threw away the longer speech that I had from last year, and I have a shorter one. Under the current statutes, Public Service Commission requires all passenger transportation carriers to maintain certain liability limits. With vehicles with 15 or less passenger capacity, they're required to carry \$1.5 million. For vehicles with 16 or more passengers, they're required to carry a \$5 million policy limit. The taxicab authority holders are required to carry a \$500,000 automobile liability policy for all vehicles covered under their authority. The maximum number of passengers allowed in the cab is six. And this would partially justify why their required limit is somewhat lower. Statutes also requires uninsured and underinsured motorist coverage of at least the statutory limits of \$25,000 and \$50,000. The purpose of the high limits is to protect the public from the bodily injury and property damage caused as a result of very often a negligent operation of a cab. Statistically, nationwide, the taxicabs have one of the highest accident frequencies of any public conveyance. And I haven't been able to find the 2010 information. The last time I saw a report though, it said that on the average, nationwide, that a cab, a single cab could be involved in three to four accidents a year. Now this is taking in, you know, New York, Chicago, not communities like ours. We don't have that great of frequency here, but we still have a higher frequency per cab than you would on a general private auto. Anytime the general public is transported by a service for hire, they are entitled to a greater expectation of safety and professionalism. Unfortunately, we also see a higher frequency of claims because of that standard of care. The required insurance coverage is needed to protect both the cab company and the public from catastrophic financial expense resulting from an accident, regardless of fault; and if there was no insurance coverage enforced at the time of the accident, or if the limits were insufficient, the innocent passengers who were injured would have to look to their own personal insurance, if they even have any these days, to pay for their injuries. Changing the regulations could easily result in a lot more cabs on the street, but cabs with insufficient coverage. And just because the PSC requires the insurance, doesn't mean that the small startup operations can afford to maintain those high limits. Insurance is expensive. Cabs in Omaha and Lincoln, for those I recently surveyed some markets, and I found the price for a \$500,000 policy in Omaha ranged, for a single cab, ranged from \$4,256 to \$5,013 per year. A single cab in Lincoln, the range went from \$3,320 to \$3,840 per year, and there is an attachment to this handout that give you a better breakdown. A regulated carrier has to prove that he can afford the insurance, plus the maintenance,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

plus the driver quality. And if you take away those requirements and you add a deregulated lower income per fare, soon you'll see poorly maintained vehicles with little or no insurance coverage transporting a portion of the population it's your duty to protect. In my opinion, it's not the responsibility of the state to draft legislation to accommodate a circumstance in a single community at the expense of the rest of the state. The system that is currently in place works. The unintended negative consequences of LB889 could far outweigh the well-intended benefits. I would entertain any questions. [LB889]

SENATOR FISCHER: Thank you, Mr. Mason. Senator Hadley. [LB889]

SENATOR HADLEY: Mr. Mason, just a quick question. I noticed you have four insurance companies on your handout, and there's different rates, so the market system is in play there, right? [LB889]

STEVE MASON: Absolutely. [LB889]

SENATOR HADLEY: But isn't there a government regulation to make sure that when there is an accident, that Cornhusker Casualty has resources to pay that claim? [LB889]

STEVE MASON: Well, absolutely. The companies are...if the company is admitted in the state of Nebraska, they have several financial responsibilities that they have to meet. The companies are also mostly have been rated or their financial records have been reviewed by A.M. Best. And A.M. Best is a third-party body that looks at their cash flows, they look at their losses, they look at their reserves and they determine how sound or how stable they may be as a company. And all companies have rankings from A, B, or C, and from as high as an A+15, which would be like some of the larger companies to...and that A+15, by the way, indicates financial strength, and it goes on down from there. [LB889]

SENATOR HADLEY: Okay. If I take those four insurance companies and I substitute cab names, cab company names, why wouldn't the same system work that the PSC, Public Service Commission, has some kind of basic regulation, but then lets the market work? I mean, you've got different prices for insurance, you've got different companies, but the government is back there to make sure that there is a level of protection. [LB889]

STEVE MASON: Well, the government is making sure that the consumer is not damaged by the poor judgment or poor investments by the insurance company, but they're not just...they're just not protecting you against the taxicab drivers or the taxicab policies. They're protecting the population as a whole for all clients. [LB889]

SENATOR HADLEY: I know...okay, okay. Thank you. [LB889]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I see none. Thank you, Mr. Mason. [LB889]

STEVE MASON: One last comment. Need and necessity? For the last hour and a half, I think it was proved. [LB889]

SENATOR FISCHER: Thank you. Next opponent, please. Welcome. [LB889]

MARK MITCHELL: Good afternoon. My name is Mark Mitchell, M-a-r-k M-i-t-c-h-e-l-l. I'm the president of the taxicab companies in Omaha. We operate 200 taxicabs and we transport over a million passengers each year. I'm in charge of accountability and it's a very serious issue. I've been in the service industry my entire life, and operating a taxicab business is much different than operating a lawn service. And I hate to draw that comparison, but, you know, that's judged on price and quality. Our business is judged and we have to perform on so many different levels. First off, safety. It's incredible how safe we have to be. We're transporting your children, your parents, your spouse--precious cargo. We can't make mistakes. We spend a tremendous amount of time orientating our drivers to make sure that they comply with the state of Nebraska's regulations when it comes to driving, as well as the PSC regulations, which...and I'm glad they're there. Mechanical safety of a vehicle is critically important. We have ASE-certified technicians that work on our cars. Taxicabs usually see a thousand miles put on them each month...or each week, I'm sorry; 50,000 miles a year. Heavy use, much like the police department. They need regular and routine maintenance, very important. LB889 is not a solution to improving service and lowering rates. It is deregulating entry to the cab industry and dissolving the rate structure. In other cities it has led to bigger problems, including many small companies fighting for the same business. Much like the Minneapolis taxicab market, imagine the taxicabs in your city operated by 20 different underfunded companies with old taxicabs and poor mechanical service. Much like Minneapolis, over 50 percent of the drivers will be flowing through a revolving door. Those drivers are from other countries to compete on the spot with local drivers offering discounted rates for fares only to send the money back to somewhere else. This is happening in Minneapolis. Google it, please read it. Small new operators usually do not have a dispatch system due to cost. In every example from the Price Waterhouse study provided, taxi fares usually increased because the small companies only service taxicab stands where price becomes insignificant, usually because customers just wait in line for service. Service does not improve at airports. The long waits at airports for taxicab drivers becomes a huge problem. These waits lead to disagreements between the drivers and often overcharging of customers. The cab stands also become cutthroat and some drivers often refuse short fares due to the wait and queue. [LB889]

_____ : (Laughter) [LB889]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

MARK MITCHELL: In addition, no-shows...excuse me. [LB889]

_____ : (Laughter) I'm sorry. [LB889]

SENATOR FISCHER: If we could just have the testimony please, I'd appreciate it. Go ahead, sir. [LB889]

MARK MITCHELL: In addition, no-shows for dispatched trips increase from stealing orders. For instance, downtown at the bar, if someone calls in for a taxi fare and another driver would sweep that fare and it would be gone. The other driver shows up and he's pretty disappointed, maybe he drove three or four miles to pick that person up. So...and I see the light is on here. [LB889]

SENATOR FISCHER: Go ahead and finish. [LB889]

MARK MITCHELL: We strongly dispute the PSC's position on the known financial impact position proposed from this bill. It is not reasonable to assume the PSC will not need more dollars for enforcement of the additional operators. I'm afraid the Legislature is going to have to accept chaos and lawlessness in the transportation industry in Nebraska if that were to occur. [LB889]

SENATOR FISCHER: Thank you very much. Questions? Senator Hadley. [LB889]

SENATOR HADLEY: Senator Fischer. Mr. Mitchell. [LB889]

MARK MITCHELL: Yes, sir. [LB889]

SENATOR HADLEY: If the system is working so well, why is there such a problem in Lincoln? Eighty percent higher rates than Omaha. We heard story after story. If the system is really working, why are there problems here? [LB889]

MARK MITCHELL: Well, the PSC regulations and the ordinances that the city of Omaha and the city of Lincoln have are good, and we follow them. And we've never been here with a problem in Omaha. We transported over a million people last year with only a handful of complaints, and we have chosen to abide by those ordinances and regulations to the letter of those. And I take that very seriously; that's what my job is. [LB889]

SENATOR HADLEY: I understand that. But I hear all kinds of...I guess I've heard three hours of...or two hours of testimony of problems in Lincoln; somebody talked about data, and I have data that shows the Lincoln rates are 80 percent higher 60 miles away and people are now saying the system is working. I don't think the system is working

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

when you have two cities 60 miles apart and you have an 80 percent difference in taxi rates. I'm sorry, I don't...if that's an economic system that's working, somebody needs to explain to me how that economic system comes up with those numbers. [LB889]

SENATOR FISCHER: Perhaps neutral testimony will help clear that up. [LB889]

SENATOR HADLEY: Okay, okay. [LB889]

MARK MITCHELL: Well, I would like to answer that if that's okay, and I have a suggestion. [LB889]

SENATOR FISCHER: Certainly, go ahead. [LB889]

MARK MITCHELL: And I made this recommendation to the Public Service Commission, and my coworkers are probably going to yell at me in a minute, but I recommended to the commission that they double the fee that we pay each year to operate a vehicle. I feel that the Public Service Commission is honestly underfunded. They need more people to help us not only police the open class operators, the limousine operators, but also the taxicabs. Like I said in the beginning of this conversation, we're transporting precious cargo; as well, people need to be treated properly and the fares need to be the same for everyone. And I think the ordinances and the regulations are excellent, but we need more enforcement out there. There's a disconnect obviously in Lincoln somewhere with the operator. [LB889]

SENATOR HADLEY: And just one more quick question that you can answer quickly. That "check engine" light, does that always come on in a taxi? No, I'm just...(laughter). [LB889]

MARK MITCHELL: You know, it does, and I can explain that if you'd like, but... [LB889]

SENATOR HADLEY: Okay. No, you don't have to. I don't think I've ridden in a taxi in the last three years that the "check engine" light isn't on. [LB889]

SENATOR FISCHER: That's only in St. Louis, I think. [LB889]

MARK MITCHELL: Well, I'll tell you what it is, it's a simple answer actually. It's a Ford issue, and when you operate a Crown Victoria the O2 sensors are pretty sensitive to different types of fuel, and when you're operating with an ethanol fuel oftentimes it will cause that to trigger. GM cars don't have that usually. [LB889]

SENATOR HADLEY: Okay. I was just being facetious, but I see now. [LB889]

SENATOR FISCHER: There you go. [LB889]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

MARK MITCHELL: Hey, I notice it too. Sometimes they have black tape over that, you know. [LB889]

SENATOR HADLEY: Thank you. [LB889]

MARK MITCHELL: Well, thank you for your time. [LB889]

SENATOR FISCHER: There you go. Thank you, Senator Hadley. Thank you, sir. Are there other opponents to the bill? And if I could have a show of hands, how many more opponents? One more, two more? Okay. Good evening and welcome. [LB889]

DAVID METER: Good evening. Thank you. My name is David Meter. I'm the general manager of Transport Plus here in Lincoln. We've operated in Lincoln now since 1997. [LB889]

SENATOR FISCHER: If you could spell your last name, please. [LB889]

DAVID METER: Oh, I'm sorry. Yes. M-e-t-e-r. [LB889]

SENATOR FISCHER: Thank you. [LB889]

DAVID METER: You bet. We've operated in Lincoln now since 1997, and we serve only those who are elderly, disabled, or visually impaired. We are not a cab company but we are a specialized transport company. However, we are regulated by the PSC and our rates are set by the PSC. We are in favor of open-market competition but not deregulation, as this would affect our most vulnerable citizens of Lincoln who we transport. We believe the safety and comfort of our citizens should be at the forefront of this decision, along with convenience and wait times, of course. If deregulation were to occur, however, we do fear for the safety of our clients, as we feel if the qualifications including proof of insurance, finger printing, driver drug testing, background checks, child protective background checks, etcetera, all of which we are required to do at this time were waived or made more lenient, that it would be endanger to our clients. We have protested with this in mind. Our company does not have an angle to gain more business or raise our rates, as we are really not directly in competition with the cabs. And we also operate on just a flat rate; we're not a metered company. But our concern is with the well-being of our clients. And, therefore, we do welcome open competition in Lincoln, but not deregulation. [LB889]

SENATOR FISCHER: Thank you, Mr. Meter. Are there questions? I see none. Thanks for staying today. [LB889]

DAVID METER: Thank you. Thanks a lot. [LB889]

SENATOR FISCHER: Next opponent, please. Good evening. [LB889]

ANDY POLLOCK: Good evening, Chairwoman Fischer and members of the Transportation Committee. My name is Andy Pollock, A-n-d-y, Pollock is P-o-l-l-o-c-k. I am here as a registered lobbyist on behalf of the Nebraska Transportation Association. It includes passenger carriers, including some of which you've heard today, the Omaha cab companies, the Papio Transport, and Transport Plus. It does not include the Lincoln cab companies. But I'm here testifying on behalf of all those carriers that operate throughout the state of Nebraska. I'm going to keep my comments relatively brief. I don't want to retread old ground. I would say I'm fair game for questions after my brief comments, or before, or during, and in particular, if there are questions about the rate provisions of this bill which we have concerns about. And I think Senator Campbell has asked some questions about which we agree with...with the tenor of those questions, as well as the Price Waterhouse study that Mr. Davis introduced to you, you have in front of you and discussed briefly. I'm not going to comment on those, but if there are questions about those, I'd be glad to address those. I would just say to you that there's been a lot of excellent testimony here today. And I think we all have Senator Avery to thank for bringing this issue not just to the Legislature's attention, but to the public's attention too, including the attention of the Public Service Commission which regulates these things. I think it's been a service to our community. And I think what you've heard is that there are serious issues here in Lincoln. And as you've heard from a couple of my clients, they have applications now pending before the Public Service Commission, and we feel, without commenting on the merits of those applications, because this isn't the right body to do that before, but we feel pretty confident that we can put on a good case, much as you've heard today, that there is a need and necessity in Lincoln and Lancaster County for additional services. In addition to those applications that the clients have filed, there's two other applications pending right now before the PSC too. A brief word on policy. There are policy reasons underlying the law that was put in place in 1937, and I would say it's not an antiquated law. It's a law that was put in place because there are hefty regulatory requirements put on passenger carriers in the state of Nebraska. You've heard about the safety requirements; there's 25 pages of PSC regulations. What does that mean? According to Mr. Davis, that means \$300 per vehicle per month to comply with PSC, with government safety regulations. Mr. Mason did a good job of talking about how expensive the insurance requirements are. Those are over and above what we have to pay. That's to protect the public safety, the safety of the passengers. The reason the law creates a threshold that's a little bit higher, it's significantly higher than the free market--need and necessity--is because it's kind of a quid pro quo, for paying for the cost of protecting the public safety as protected by...as demanded by regulation, there's some protection against the ordinary whims of the market. I can tell you need and necessity is right in the middle of the requirements that you see in other jurisdictions. There's some jurisdictions that have none; those are few. There are some jurisdictions that mandate the number of vehicles that are on the road.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

So need and necessity is kind of a happy middle ground and I would submit to you well-supported by policy and policy that exists today to protect the public safety. With that I would conclude my comments and welcome any questions. [LB889]

SENATOR FISCHER: Thank you, Mr. Pollock. I thank you for your comments about the regulations imposed by the Public Service Commission. You were the executive director of that commission, were you not? [LB889]

ANDY POLLOCK: I was director for about seven years. Correct. [LB889]

SENATOR FISCHER: Okay. So you are well-versed in all those regulations put upon us by government, correct? [LB889]

ANDY POLLOCK: They are regulations that have been in place for a number of years. [LB889]

SENATOR FISCHER: Okay. Are you familiar with the study that was handed out that you referenced from Price Waterhouse? [LB889]

ANDY POLLOCK: I read it pretty carefully a few times through. Um-hum. [LB889]

SENATOR FISCHER: Okay. Any committee members, since we just received this, any committee members that have questions after looking this over, may they contact you on that then? [LB889]

ANDY POLLOCK: Absolutely, I would be glad to talk to you. It's really a well-done study. It's a few years old, but it does show that some of the intentions behind deregulation have not been realized. And I think some of those same intentions are intentions that if you look at the Facebook page that you've all heard about, those are concerns that they have too, legitimate concerns. But this study shows that deregulation really hasn't satisfied or addressed those concerns. [LB889]

SENATOR FISCHER: Okay. Thank you, Mr. Pollock. Other questions? Senator Campbell. [LB889]

SENATOR CAMPBELL: Thank you, Senator Fischer. Mr. Pollock, I want to go back to the original question that I asked on the rate provision. And in the testimony, since you represent the association you would know a lot, I mean have access to a lot of information from your members. One of the gentlemen talked about different levels in Omaha. That's not quite the same...I mean, are all companies there using those rate levels, or does one company say it's this much to the Hilton and another company says it's another to the Hilton? Do you see my question? Because I thought that there was like a single rate here, and that's not what I heard. [LB889]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

ANDY POLLOCK: The rates can vary. Are you talking about the five authorities, cab authorities in Omaha, or different operators in Omaha? [LB889]

SENATOR CAMPBELL: The gentleman said that he had different levels if he went to the Hilton or if it went to west Omaha, and I was just trying to figure out if that's uniform across all the companies in Omaha? [LB889]

ANDY POLLOCK: I think there are a number of competitors in Omaha and I can't speak for what rates that they charge, and I would venture to guess that they're probably slightly different. I would venture to guess that the market probably drives those rates closer together. I think one thing that's been said here that needs to be cleared up is that the Public Service Commission does not set rates. It's close: it approves rates. So each one of those companies, Senator Campbell, would file their rates with the Public Service Commission. The Public Service Commission can reject those rates or they can approve those rates. [LB889]

SENATOR CAMPBELL: Okay. And I'll follow up, Mr. Pollock, with them. The other thing is, in your background and experience, why do you think this need in Lincoln has not bubbled up until Senator Avery started asking questions? And I have to say, until the articles in the paper, my husband and I had no idea how much it costs to go from the airport to whatever, and I think we were just astounded. Why has that need not bubbled up? [LB889]

ANDY POLLOCK: That's probably a million-dollar question that I think a lot of the people in this room would like to have an answer to. I don't think there is probably one single magic answer. It hasn't...I can tell you that the rates of the Lincoln Cab Company, this is all public record and I looked this morning to verify this, they were increased last summer. The Public Service Commission had a public hearing, much like you're doing here today; it was noticed. Like many administrative agencies, there's not a lot of people in Lincoln that probably watch to see what the Public Service Commission is doing. That may be an unfortunate fact about our society that people aren't maybe as vigilant, but it's true. And so my point there, Senator Campbell, is that no one protested those rates. There was no opposition to those rates, unfortunately. Maybe they wouldn't be where they are today; maybe they would. Maybe they were justified. I can't answer that question. The commission would have to. But it's a fairly low profile type of administrative action and people just don't jump up and protest. I can tell you that as soon as my clients heard in Omaha, heard that there was an issue down here, they were on the phone with me saying, what can we do to apply to get into the Lincoln market? And it's been something that they've been considering for a period of time, I can tell you that too. I wish we would have known about it before. [LB889]

SENATOR CAMPBELL: Thank you, Mr. Pollock. [LB889]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

SENATOR FISCHER: Senator Price. [LB889]

SENATOR PRICE: Senator Fischer, thank you. Mr. Pollock, thank you. In listening to all of the debate, my question centers on, how much of this regulatory requirement is brought from the federal government? So in other words, you can't get away from some of this stuff, I suspect. This isn't all just a PSC state-generated set of regulations. Is that true or can you size that? [LB889]

ANDY POLLOCK: I think most of this, Senator Price, is more state-driven. You'll see it vary from state to state. You'll see, and this Price Waterhouse report will inform you a little bit about that. Sometimes it's regulated at the city level. But usually it is a local issue. We're not talking about interstate freight that is regulated more at the federal level. Of course, their Department of Motor Vehicles has a motor carrier division that deals with that too. But this is more of a local statewide issue, so it's not guided heavily by federal law. [LB889]

SENATOR PRICE: Great. Thank you. [LB889]

ANDY POLLOCK: Yes. [LB889]

SENATOR FISCHER: Thank you, Senator Price. Other questions? I see none. Thank you, Mr. Pollock. [LB889]

ANDY POLLOCK: Thank you. [LB889]

SENATOR FISCHER: Other opponents to the bill. I believe this is the last opponent. Good evening and welcome. [LB889]

KIRBY YOUNG: Good evening. I guess it is kind of evening already, isn't it? [LB889]

SENATOR FISCHER: Getting close. [LB889]

KIRBY YOUNG: My name is Kirby Young, K-i-r-b-y, last name Young, Y-o-u-n-g. I'm the managing member of Servant Cab, Yellow Cab, Capital Cab, here in Lincoln, Nebraska. And first of all I'd like to say that we are here to express our opposition to this bill on a number of different bases. We invite competition, as long as it's fair competition, and I'm going to get into some of those issues right now. Some of them have already been addressed and so I will skip over those that have been. We currently employ approximately 40 drivers. We have approximately 40 vehicles, as opposed to Senator Avery's testimony that said we only had 12. That's incorrect. All of our drivers are employee drivers. In Omaha, they simply lease vehicles to individuals they claim are independent contractors. However, in the testimony you heard from the Omaha cab

companies. They refer to them as their drivers. Okay. At the same time they claim that they're independent. They do not employ them, or so they say. This practice means that there is no workers' compensation being paid. There is no state or federal unemployment being paid. There is no matching Social Security or Medicare that is being paid. There's also no man-hours needed to manage these requirements, and they are requirements. This practice allows rates to be held artificially low. However, it places additional costs on every business, individual, and government. Doing these things the right way is what we are doing according to the law. This practice has been found...this practice has been found by the state Supreme Court of Nebraska to violate our workers' compensation laws, and has just been recently referred to the Department of Labor for examination of misclassification. These are very serious issues that need to be looked at and addressed by this body if it's going to consider deregulating this whole thing and letting anyone operate, I believe, as does the Supreme Court, in an illegal fashion. Lincoln is not Omaha, Chicago, New York, or Kansas City. We don't have a constant need for taxi service that many of these large areas have. Our airport is a fraction of their sizes, and the traffic in these cities have substantially more traffic than our airport. We don't have taxis sitting out at the airport just waiting for somebody to come in because if you've ever taken a flight out of our airport, they're few and far between. That's just a fact. Back in May, we were forced to lay off 25 of our workers because of major changes in the HHS transportation program throughout the state. We laid them off because there is less transportation need in Lincoln, not more. I've already addressed the price difference that has been the million-dollar question in the room, and I would simply ask this body to closely look at those facts that I have laid out. And if they want to look the other way, or the state labor board wants to look the other way, or the Supreme Court wants to look the other way, please tell me and I will adjust my business accordingly and allow the general public, the state agencies, and every individual to pay for a lower-cost taxi service in Lincoln. If you want us to do it that way, we will gladly do it that way. Those are all things that this body needs to look at. It's a lot more than just the people walking up, saying, you know, I can't get a cab, you know, on football Saturday. [LB889]

SENATOR FISCHER: Thank you, Mr. Young. [LB889]

KIRBY YOUNG: And I'll take any questions that you've got. [LB889]

SENATOR FISCHER: Are there any questions? Senator Hadley. [LB889]

SENATOR HADLEY: Senator Fischer. Mr. Young, thank you for coming in. Taking aside, I think you've explained the difference in price, but we heard a lot of testimony about the inability to get service in Lincoln. Do you think all those people were exaggerating the wait times and the inability to get a taxi? [LB889]

KIRBY YOUNG: Well, I know the one bar owner flat out lied when he said we would not

come to the taxi stands in front of his building. That's just...you can go down...Bob Harrison, who works for the commission, goes down there and looks on a regular basis. We're down there all the time. We're in those taxi cabs. The police sometimes won't kick other people out of those areas that come in and pull up to pick people up. It was just a flat out lie. So are there exaggerations? You bet there are. Do people have to wait sometimes? Sure they do, and it's not unlike any other place in the country. We have just applied, as well, for cab authority in Omaha. Omaha has the same issues that we do, except I believe that they're exacerbated beyond ours. You have people coming here that are from Lincoln. If this was held up in Omaha, you'd have the same individuals, but from up in Omaha, testifying the same things. And they hear it down at the commission, they already have. The one company from Carter Lake had a raft of them show up at the commission from Omaha testifying of the same things. The Doubletree Hotel, who's on our application, they can't get people there. You can get people at the airport because the drivers want to sit there. And because they're independent contractors, here's what happens: They sit where they can get the highest fare and the little grandma doesn't get served; the little blind person doesn't get served. All of these people don't get served, but the people that are dumping out at the new convention center or the Qwest Center, they all get served. And they don't have to go to pick somebody up if they don't want to. Many of the drivers up there in Omaha kick off at about 1:00 in the morning because they don't want to deal with the drunks that all pile out of the bar at 2:00. Our drivers have to because they're employees. [LB889]

SENATOR HADLEY: Thank you. [LB889]

SENATOR FISCHER: Thank you, Senator Hadley. Senator Price. [LB889]

SENATOR PRICE: Thank you, Senator Fischer. Thank you for providing insight. You said something earlier, you had about 40 vehicles in your fleet. [LB889]

KIRBY YOUNG: We do. [LB889]

SENATOR PRICE: And can you tell me, on an average day, how many of them are in service? [LB889]

KIRBY YOUNG: At different times there is more in service, and at different times there is less. Between 3:00 and 5:00 in the morning we might only have three cabs out there on the street because everybody is in bed. You know, we can't employ ten cabs at that time; you know, it doesn't make business-feasible sense. [LB889]

SENATOR PRICE: Would you say that if your peak periods were from 12 noon to 6:00 at night, I'm just going to pick a number, I don't know if that is your peak periods... [LB889]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

KIRBY YOUNG: Um-hum. [LB889]

SENATOR PRICE: ...that you have 80 percent of your cabs in service? [LB889]

KIRBY YOUNG: Absolutely. [LB889]

SENATOR PRICE: Thank you. [LB889]

SENATOR FISCHER: Thank you, Senator Price. Other questions? I see none. Thank you very much for coming in today. [LB889]

KIRBY YOUNG: You're welcome. Thank you. [LB889]

SENATOR FISCHER: Any other opponents to the bill? I see no more opponents. Neutral capacity. Good evening, Mr. Hybl. Nice to see you. [LB889]

MIKE HYBL: (Exhibit 18) Good evening. Senator Fischer and members of the Transportation and Telecommunications Committee, good evening. My name is Mike Hybl, that is spelled H-y-b-l, and I'm the executive director of the Nebraska Public Service Commission. I'm here today to testify in a neutral position regarding LB889. My purpose today is to provide you with information to assist you in making policy decisions regarding the regulation of taxicab service in this state. As you know, the commission currently regulates taxi, limousine, and open class passenger transportation services. This authority generally includes certification of providers, setting of rates, and ensuring the provision of safe and nondiscriminatory transportation services. LB889 makes three primary changes to the current law regulating taxi service in Nebraska. First, it changes the definition of taxi service. Second, it changes current rate regulation to require the commission to set a maximum rate for taxi service through a rule and regulation proceeding. Finally, it removes the public convenience and necessity requirement for applicants wishing to provide taxi service in Lincoln and Omaha. Section 3 of the bill adds a definition of taxicab carrier, and my testimony lays out what that current definition is in our rule. The new term and definition blurs the distinctions between taxi, limousine, and open class service. We would recommend that the committee consider striking the new definition or amend the bill and use the current definition that we have in our rules and regulations. With respect to rate regulation, the commission currently approves the rates to be charged by taxi service providers. Providers file a tariff with the commission along with supporting documentation showing costs of the service to support the rate. Notice of the rate change is published and an opportunity for a hearing is provided. If no protests are filed and sufficient information is provided, the commission typically approves the new tariff. The process in place is sufficiently flexible to allow carriers to adjust rates as necessary to ensure fair profit for the carrier and the ability to maintain competitive rates. On the contrary, the rule and regulation procedure that is set out in the bill is a highly structured process with rigid time lines that do not

allow for similar flexibility. It is simply not the appropriate place for rate making. Should the committee wish the commission to set only maximum rates, the same tariff filing process would work, and we would be happy to work with the committee to provide appropriate language. Finally, whether an applicant wishing to provide taxi service should be required to demonstrate public convenience and necessity is strictly a policy question for the Legislature. The concept of public convenience and necessity and how it is demonstrated is a longstanding and well-litigated regulatory standard for common carriers. The Nebraska Supreme Court has addressed the standard on multiple occasions and I have provided copies of the Nebraska Supreme Court Opinions that may be helpful to the committee. I will also provide to committee counsel two articles that discuss deregulation in the taxi industry generally. The public convenience and necessity standards' purpose is to foster competition by eliminating discrimination or undue advantage. Further, our court has said that in determining whether a particular applicant has demonstrated public convenience and necessity, they look to whether the operation will serve a useful purpose responsive to the public demand or need, whether this purpose can or will be served as well by existing carriers, and whether it can be served by the applicant in a specified manner without endangering or impairing the operation of existing carriers contrary to the public interest. The commission at this time has nine pending applications to authorize taxi authority in Lincoln or Omaha. Seven of those applications seek authority to provide service in the Lincoln market, and two applications seek authority to provide service in the Omaha metropolitan area. Because the concept of public convenience and necessity is a critical element for each of these applications, I believe I should limit my comments regarding this particular subject; however, if there are questions I will try my best to be responsive. This concludes my testimony today and I'm available to take any questions you may have. [LB889]

SENATOR FISCHER: Thank you, Director. Are there questions? Senator Hadley. [LB889]

SENATOR HADLEY: Senator Fischer, thank you. Mr. Hybl, thank you. We did hear about companies wanting to go from Omaha to Lincoln and Lincoln to Omaha. Then it would be permissible for a company, the same company that operates in Omaha and Lincoln, to have a different set of rates for the Omaha market and a set of rates for the Lincoln market, is that correct? [LB889]

MIKE HYBL: I think as we get into these pending applications, generally, in a market where there is two providers, the commission has basically set a standard rate that the two competing carriers will offer. I think it kind of goes to your point that there is not confusion to the public that one carrier will charge one rate and another one's charging rate, so generally there is a uniform rate across the market. [LB889]

SENATOR HADLEY: And that could be a different...so the same company could have one rate in Omaha and then the same company could have a different rate if they were

operating in Lincoln also. [LB889]

MIKE HYBL: You know, I think intuitively that makes sense. The problem is that when we're dealing with taxi providers, and as we get into these applications I think it's an issue that we're going to have to wrestle with, is that they are metered. The meters are basically checked by the commission each year. There's a lock on the meter that we place there to make sure that the rates that are on file and tariffed with the commission and approved by the commission, are, in fact, the rates that are being reflected on the meter. So, this idea of the same entities in two different markets and what the rate structure is going to be, that's an issue the commission will have to work through as we go through the process of these applications and if they are granted. [LB889]

SENATOR HADLEY: Thank you, Mike. [LB889]

SENATOR FISCHER: Thank you, Senator Hadley. Senator Campbell. [LB889]

SENATOR CAMPBELL: Thank you, Senator Fischer. Mr. Hybl, thank you for bringing the information forward. As always, you provide good information to us to take a look at and think about. My question goes back to the same question I have been asking, because I thought I understood, but then the gentleman raised the issue about that there's probably a different rate going from the airport to the Hilton or...versus in west Omaha. Now, based on what you're talking about is a standard rate across the market, so no matter what cab I took in Omaha I'd pay the rate from the airport to the Hilton the same, any cab that I took? [LB889]

MIKE HYBL: Yeah, and there's a bit of a difference in the Omaha market that in Omaha there is an airport-to-hotel rate that's basically a flat rate, and whoever the provider is that's the rate that applies. But we do have what I refer to as the hotel rate, and it's for the airport to the hotel transportation. And then basically those fares are run off the meter. [LB889]

SENATOR CAMPBELL: And so under the bill that we have in front of us, if the PSC set a maximum rate and they could charge the first example that I used in terms of charging Senator Price something different than me, that could exist if we went to the maximum rate? [LB889]

MIKE HYBL: Yeah. I mean, as I read the bill we wouldn't have something like the hotel rate, I think, where we would be under the bill. And I guess my concern is that it could cause some confusion is taxis that operate in Lincoln and Omaha are required to have meters and the one difference is that hotel-airport rate we have in Omaha. I think under the bill as proposed with that maximum rate, the meter would still be in use and whatever the approved rate is that would show on the meter, but as I'm interpreting the bill then basically the ultimate charge that is paid is basically some element of what is

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

on the meter. It's either... [LB889]

SENATOR CAMPBELL: So it could be different. [LB889]

MIKE HYBL: I think that's what... [LB889]

SENATOR CAMPBELL: If Senator Price took a cab and I took a different cab, and I have to say when I've been in convention cities for lots and lots of years, you know, it soon got around: Well, you know, if you took this cab company this is what I paid from the airport versus this is what I paid. And then there really is confusion and mistrust. And so I'm trying to figure out that rate structure too, because I don't want it to be so different that people go: Well, there's a lot of difference here. [LB889]

MIKE HYBL: You know, and I think that type of system I think potentially could be made to work. I know the first few times I was in Washington, D.C., it took me awhile to figure out the zone rates. But I think with the current requirements that we have that cabs, that there is a meter, the meter has to be used, there is the potential for confusion where the meter would be in effect and then...and that would display whatever their maximum...I'm assuming what their maximum tariff rate is. And again, as we indicated in our testimony, on that issue if there is some specific direction the committee wants to go, we're more than happy to work with you and with Senator Avery. [LB889]

SENATOR CAMPBELL: If Senator Fischer will indulge me, I just want to ask one other question and I've asked it quite a bit, and that is, why did this need not bubble up in the community? And if I understand, it's not the PSC's job to figure out...you know, to go out into the market and say there's a problem here. You respond to the people who come forward to you. Would that be accurate? [LB889]

MIKE HYBL: We do a little of both. And I agree with Mr. Pollock, I think Senator Avery should have some recognition. I mean, he's done a lot to bring a focus on this issue. We have been working, particularly commission staff and the transportation department has been working both the Internal Liquor Committee of the city of Lincoln for a number of years, three years that I'm aware of, that I've been at the commission. I know they've had a number of discussions with the bar owners. I've met with folks from the city and the city council. Our primary inspector here in Lincoln, Bob Harrison, has spent countless weekends from midnight to 2:00, or midnight to 1:00 prior to change in the closing hours, observing what's going on in the downtown area, working with the cab companies. We polled our complaints that we've received. Last year, in 2011, we received five informal complaints regarding availability service in Lincoln; I think it was 11 the year prior. No formal complaints. Obviously, as a regulatory agency, we have tools to deal with those that we regulate, but we have to have some basis to proceed on, and obviously, for us, our most stringent sanctions we can impose on someone really needs to be done through a formalized complaint process, and it just hasn't

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

generated. [LB889]

SENATOR CAMPBELL: Thank you. [LB889]

SENATOR FISCHER: Thank you, Senator Campbell. Senator Price. [LB889]

SENATOR PRICE: Thank you, Senator Fischer. That was a nice segue. Does the PSC have a duty to report these informal or formal complaints in a public venue? [LB889]

MIKE HYBL: You know, we do not do...we really don't have that type of process in our transportation department. I think if you ever look through our annual report that we provide to the Legislature and telecommunications, there's a lot of information in there. Generally when we have significant formal complaints that are filed that we process, we include a summary of that so that the Legislature has the opportunity to see that, or anyone else that reads our annual report. [LB889]

SENATOR PRICE: But it would be an annual report. You wouldn't have an ongoing Web site; like NADC, you can go out right now and find people's filing reports as a matter of public record. So right now there's nothing public (inaudible). [LB889]

MIKE HYBL: Nothing formalized like that. But we can look at that. I mean, if that's something you think is helpful, yeah, more than happy to look at putting that in place. [LB889]

SENATOR PRICE: Thank you. [LB889]

SENATOR FISCHER: Thank you, Senator Price. Other questions? I see none. Thank you. Any other person wishing to testify in the neutral capacity? Good evening. [LB889]

RON HUG: I guess it is evening now, isn't it, Senator. Ron Hug, R-o-n H-u-g. I am probably the only taxi driver that will appear here today. I'm a taxi driver for City Taxi, Inc., out of Carter Lake, Iowa. Again, as my boss told you, we do have an application before the Nebraska Public Service Commission to be able to provide a limited service in the Omaha area, basically downtown and midtown. We have yet to hear our decision. And the reason I'm here speaking on the neutral is because if we had our decision I may be speaking opponent. But I think that, again as Kirby stated, if you had this hearing in Omaha I think you would have a very similar outpouring of residents speaking about the taxi service in Omaha. And the other...as a taxi driver, the other problem in Omaha is if you become disgruntled or unsatisfied with your employer or contractor as a taxi driver in Omaha, there's no place to go. I mean there's basically, one taxi company in Omaha. And there is a large number of what I would consider professional taxi drivers. So thank you. [LB889]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

SENATOR FISCHER: (Exhibit 19) Thank you very much. Questions? I see none. Thank you. Anyone else in the neutral capacity? I do have a letter in support of LB889 from Lee Stuart, CEO of NBC Bancshares LLC, here in Lincoln. Senator Avery, would you like to close? [LB889]

SENATOR AVERY: Thank you, Senator Fischer. I am reluctant to close because I know how it feels on your side of the table to sit there for hour after hour, but there are some things that I need to say because of things that were said. But let me just start with an observation. I just had this odd experience sitting back there watching a bunch of businessmen appear here and defend regulations. And I don't think I've ever seen that before. So now why do you think that is? I would suggest to you that the reason they defended the regulations is the regulations set up a pretty good system for them that makes it very difficult to get into their market, and it makes it very easy for them to...actually, despite the regulations, they do pretty well. That is my guess. Let's keep the competition out because if competition comes in, maybe I have to provide more service, better service, perhaps even a better rate. The last testifier, Mr. Hug, mentioned that essentially you have only one company in Omaha. I'm not going to say it's similar in nature to Lincoln. Lincoln is a pure monopoly. You do have five cab authorities in Omaha. You have two owners, as I understand it, and one management company, and the president of that company I believe testified, Mr. Mitchell. Calls go to the same dispatcher, so, you know, in a sense it's not exactly a competitive environment there either. And that is a reason why it's important to have this apply not only to Lincoln, but to Omaha. The one thing that I want to point out that the bill does not affect at all the standard of fit, able, and willing. That will still be there. It would only affect the public convenience and necessity provision. The question was raised about safety, public safety--an important issue. The public safety process in the city of Lincoln is very extensively covered in a licensing ordinance that the city of Lincoln has for all cabs. They license the drivers; they have to have a medical examination by a licensed physician. There are all kinds of rules about drug use, about felonies, misdemeanors, refusal to submit to a chemical test. They have to pass an examination on traffic ordinances, and it is all designed to make certain that you protect the public. And I believe that would not go away as well, because the bill that I've suggested does not even address the city ordinance. Some comments were made about how the complaint system works. If you have a complaint about wait time, you don't even get into the cab to see where the information is and the phone number is to call to register a complaint because the cab doesn't show up. That's where your information is. If you want to know...if you're going to make a complaint and you want to know what the number is, you've got to be in the cab to see it. The representative Mr. Young, of Servant Cab, specifically disputed my use of the number of 12 cabs and he said they have 50. I have here a copy of their filing before the Public Service Commission in May of last year where they were filing to amend this fuel surcharge in taxi rates, and they state very clearly that the applicant ran 30 cabs during the day before May of 2011, but has cut that number to around 12 since that time. Now he says he has 40 cabs. That's ten more

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
January 31, 2012

than they had last May. That's a pretty big investment, or else some numbers are not right. If they were operating around 12 in May, then 28 more cabs appeared somewhere. That's mind-boggling to me, and I suggest that there's something wrong with those numbers. What I'm trying to do here is create a competitive market to allow market forces to work so that you get better service and better rates. And I would appreciate your looking favorably on this bill and I do appreciate your time and attention and the quality of your participation in this hearing. Thank you. [LB889]

SENATOR FISCHER: Thank you, Senator Avery. Questions? I see none. Thank you very much. With that I will close the hearing on LB889 and that closes the hearings for the day. Thank you all for coming. [LB889]