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Transcriber's Office

Transportation and Telecommunications Committee
March 18, 2013

[LB84 LB223 LB650]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Monday, March 18, 2013, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB650, LB84, and LB223. Senators present: Annette Dubas, Chairperson; Lydia Brasch; Galen Hadley; Charlie Janssen; Beau McCoy; Scott Price; and Dan Watermeier. Senators absent: Jim Smith, Vice Chairperson.

SENATOR DUBAS: Good afternoon. We will get this hearing underway here. So I'll take care of a few housekeeping duties, and then we'll be ready for our first bill. Welcome to the Transportation and Telecommunications Committee. My name is Senator Annette Dubas, Chair of the committee. The bills we will be hearing this afternoon in this order, we had to do some last-minute rearranging, but we'll hear first LB650, then LB84, and lastly LB223. I'll introduce committee members; they aren't all here yet. There may be some coming and going, so please don't be offended if people get up and leave while you're talking. There is still bill introduction going on. I'll start to my far left. We have Senator Lydia Brasch from Bancroft. Next to her, Senator Beau McCoy from Omaha, Senator Galen Hadley, Kearney. To my immediate left is Anne Hajek; she is the committee clerk. It's her job to keep a very accurate record of what goes on in the committee hearings. To my immediate right is Joselyn Luedtke; she is committee counsel. Joining us shortly will be Senator Jim Smith. He is the Vice Chair of the Transportation and Telecommunications Committee, and he is from Papillion. We have Senator Scott Price from Bellevue, Senator Dan Watermeier is from Sycracuse, and Senator Charlie Janssen from Fremont. So as I said, senators will be coming in and out. We are fortunate as committees as well as up on the floor of the Legislature to be served by the page program. These are college students who give of their time and talents to help us keep things moving smoothly through the legislative process. So today we are served by Kaitlyn Evanko-Douglas from Montrose, Colorado. She's a senior at UNL majoring in political science and global studies. We have a new page with us today, so welcome Sabrina Buckwald. She is a senior at UNL majoring in political science. Thank you again for your help and your service. As I said, the bills will be in the order that I just listed. We'll have supporters, opponents, and then neutral that will come forward. When you come forward to testify, you'll have a green sheet filled out. Appreciate that information. And then when you're at the table, if you will state and then spell your name for the record, again, that helps us keep an accurate record. And transcribers, if they should happen to have any questions, will be able to get in touch with you to make any clarification. If you're here today, you don't want to come and testify on the bill, but you would like to be in the record as to your feelings one way or another, there is a pink sheet back there on the table. Fill out that information, and we'll collect that at the end of the hearing to go into the record. If you have anything that you would like to handout when you come, the pages will pick up your green sheet and then anything that you may have to handout, they'll take that from you as well. If you would

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have 12 copies, that would be appreciated. If you don't have those copies with you, you can get them to the page ahead of time, and they can make copies for us to have. If you would please silence your cell phone or any electronic equipment, that would be appreciated, again, to keep from interfering with the transcribers and the recording equipment. I know we're all very inclined to want to take hold of the microphone when you come to the table. But the microphone is more for recording than it is for amplification, and it's very sensitive to other sounds. So finger tapping, paper rustling, those kinds of things make it difficult for the transcribers to accurately hear what's going on. So try to resist that temptation and that urge to adjust the microphone because it really doesn't need any adjusting. I think that takes care of our housekeeping duties. And with that, we will begin with Senator Karpisek and LB650. [LB650]

SENATOR KARPISEK: (Exhibit 1) Thank you, Senator Dubas. And thank you very much for rearranging the schedule once again. We have a fact-finding tour with the General Affairs Committee, and I have another bill up. So that's how...what we're up to. [LB650]

SENATOR DUBAS: Well, welcome. [LB650]

SENATOR KARPISEK: Thank you. For the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, and I represent the 32nd Legislative District. I'm bringing this bill today for a constituent of mine who is a deputy in Fillmore County. And he is very upset that these trailers that you are looking at, that we passed out, do not need to be plated. I'm just going to read you his e-mail that kind of got this all started. The reason that I wanted to talk to you was about this trailer that a company in Des Moines has told the owners that they did not have to license it because our DMV is calling it something that it is not. These people have ducked past taxes involving other trailers by telling the treasurer that the trailers were homemade, yet they could not produce receipts for the metal that would have been used to even make the trailers. So different subject, but he's also on that that if you say it's homemade, you don't have to pay taxes. But yet you can find a manufacturer's plate on it. I have also taken the time to photograph data plates on some of the trailers as they claim being homemade that show the trailers are manufactured and not made by them. We have budget problems and spending money that we do not have--I don't know about that--but this problem with these trailers needs to get fixed and when a Des Moines company sells these trailers, needs to stop telling their customers that these trailers do not have to be licensed in Nebraska as long as you tell DMV that it is an asphalt spreader. Just with this one trailer, we are losing sales tax on a machine worth about \$50,000 along with the license fees as well. I will also tell you that the county treasurer even sent to the DMV in Lincoln pictures as well as information from the manufacturer stating that this item has to be trailer mounted. I will also add that this company in Des Moines has admitted to me that they have a fleet of these operating out of Omaha that they rent and do so because they do not have to register them in Nebraska, where they are required to register them in Iowa. Deputy

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Hester was not able to be here today because of some short staffing. In the statute, they talk about an asphalt spreader. But, as I understand, that's a drivable machine, where this is not. Also by looking in the statutes we have found that a trailer is defined as something that hauls persons or property. These trailers, supposedly, they pull to the site, put asphalt in it, heat it up, and then use it to fill cracks in a parking lot or a street much like maybe a cement mixer or the pull-type ones or a log splitter. I have explained that to Deputy Hester. He does not like my thought. He says, well, then change it. And I said, well, we would pull all those things in then, everyone with a log splitter or those things would have to get them licensed then, and I don't think that's what we want to do. So then his next idea was to only do it if they are in business with them. I don't know how we'd do that. Again, Deputy Hester was very, very adamant that I put a bill in to fix this problem. So I'm really...I really wish he could have been here to explain it more to you. But I'd be glad to try to answer any other questions. [LB650]

SENATOR DUBAS: Thank you, Senator Karpisek. Are there questions? So there are quite a few of these mixers around, then, according to your testimony? [LB650]

SENATOR KARPISEK: I guess. Again, he says that there is a fleet of them in Omaha and... [LB650]

SENATOR DUBAS: So a fleet could mean 2 or it could mean 200. [LB650]

SENATOR KARPISEK: Right. [LB650]

SENATOR DUBAS: And these are...I'm assuming these are things, then, that maintenance people like with parking lots or roads or what have you, that's what they use to take care of the cracks in the road. Correct? Okay. But there's no...I mean, this is just...it's a piece of machinery. It's not necessarily a trailer, but they aren't hauling the actual asphalt in this, is that correct? [LB650]

SENATOR KARPISEK: Supposedly not. [LB650]

SENATOR DUBAS: Okay. [LB650]

SENATOR KARPISEK: Now, as I understand this, and legal counsel I'm sure would be better, but if you're hauling a person, like a camper or property, like a trailer for hauling hay, they need a license plate. If it's just pulled and set somewhere to do the work while it's on site, it does not. [LB650]

SENATOR DUBAS: Do these have lights or anything like any kind of safety... [LB650]

SENATOR KARPISEK: I think they do. That's the only time I've ever seen one was that picture that he sent me, and that was off of Facebook. And I guess I never knew that

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definition of trailer till we got into this whole discussion. But, again, he is just very adamant about it. [LB650]

SENATOR DUBAS: Okay. Are there other questions? Senator Price. [LB650]

SENATOR PRICE: Thank you. I would wonder if this is a commercial piece of property, that they have to have it on insurance. I mean, you would insure your trailer, you know. And if you...I mean, it would almost seem to me that instead of adding trailer includes asphalt filled the trailer, we just broaden the term with trailer. [LB650]

SENATOR KARPISEK: And I agree, Senator. It's just then if you catch things like a log splitter or a pull-behind cement mixer and those sort of things that most people might have. You know, not too many people just have one of these sitting in their driveway, probably. But a lot of people have log splitters that they might pull... [LB650]

SENATOR PRICE: Right. [LB650]

SENATOR KARPISEK: ...to a friend's house to split wood. We don't currently have to license those. My thought is when you expand that and get all that, you're going to have a lot of people that you affect. [LB650]

SENATOR PRICE: All right. Thank you. [LB650]

SENATOR KARPISEK: Thank you. [LB650]

SENATOR DUBAS: Other questions? Seeing none, thank you very much. [LB650]

SENATOR KARPISEK: Thank you. And I will waive closing and get to the other hearing. [LB650]

SENATOR DUBAS: All right. Okay. [LB650]

SENATOR KARPISEK: And I appreciate you changing the order. [LB650]

SENATOR DUBAS: You bet. [LB650]

SENATOR KARPISEK: Thank you very much. [LB650]

SENATOR DUBAS: Thank you, Senator Karpisek. Are there proponents for LB650? Any opponents? Anyone in the neutral? Seeing none, you can still close if you want; we're done. [LB650]

SENATOR KARPISEK: I don't know what else I'd say. [LB650]

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SENATOR DUBAS: Okay. All right, that will close the hearing... [LB650]

SENATOR KARPISEK: And when I don't even have anything to say, I'd better leave. [LB650]

SENATOR DUBAS: That will close the hearing on LB650. And we'll move on to Senator Schumacher. We should have put the word out to get him here. The next one is LB84. Can we call Senator Schumacher's office, please? Welcome, Senator Schumacher. [LB650]

SENATOR SCHUMACHER: (Exhibit 2) Good afternoon, members of the Transportation and Telecommunications Committee. My name is Paul Schumacher, P-a-u-l S-c-h-u-m-a-c-h-e-r. And I am here today to introduce LB84. The pages are passing around an amendment to LB84 which basically serves the same function as the original bill but clears up what was thought to be, by some, some confusing language. And so what we'll do is, I'll address the amendment rather than the initial language. A utility-type vehicle is a small vehicle. You've probably seen them around. They look like a little mini-pickup or a mini-Jeep, and they are lightweight vehicles, smaller-sized wheels, designed principally not for interstate-type travel, certainly. But they are functional vehicles that many states, like Arizona, allow people to drive pretty much freely. And that seems to be an attraction by the folks, at least from my district, who sometimes vacation in Arizona. The Legislature allowed communities a few years ago to authorize the use of these kind of mini-vehicles on the public streets under limited conditions. They had to have a head light; they had a tail light; they had to have a flag waving in the back; they had to have insurance. And for the most part these authorizations were accepted in many communities. And the Legislature also exempted certain things like use for agricultural purposes when people go back and forth and check their irrigation pipes and herd cows and things like that. Well, everything is pretty cool with it all, except there is a provision in there that says these things will not be operated on limited-access highways. And that's basically, as I gather, a four-lane road. Okay? And they cannot be operated on there. And they can't even cross a four-lane road, even if it's at a light, even if it's okay with the city, even if it's okay for bicycles, tricycles, and people on skateboards to cross an intersection. What that does is limits the functionality of the vehicles and often boxes them into a very small area. Towns like Columbus, for example, that have a couple or three intersecting four-lane roads, you can get a pretty small box created by that particular rule. And when you come to think about it, why should the rule exist? If a bicycle can go through and a tricycle can go through and a motorcycle can and a skateboarder can, why can't one of these particular kind of vehicles? So what this particular piece of legislation does is it creates an option on the part of local government to authorize the crossing of a four-lane road at an intersection that has a traffic-control light as long as they follow all the other rules for the utility-type vehicle, the little flag in the back and every other rule they have to follow to be on the road. It is at an

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intersection with a traffic-control light. The city or county if it's out in the county says that it's okay to cross at that particular intersection with a traffic light, and the crossing is, in fact, made in compliance with the traffic light. So it gives local governments the authority to set up crossing points that are government traffic lights that these vehicles can cross to get from one side of what is now an artificial barrier to the other. And I'm told that this will make the vehicles more functional for their utility purposes and also make our state a little more competitive with Arizona where a lot of the folks go as they get over 55 years old and start vacationing and are used to driving these things around and, most importantly, more fun. So that is the opening to this. I think that it is the kind of thing that should be left in the discretion of local government if it wants to permit such crossings and to pick out the safe intersections to allow such crossings at. It would not permit them to turn onto the road and drive down the four-lane road, just cross the four-lane road with the light. I'd be happy to take any questions. [LB84]

SENATOR DUBAS: Questions for Senator Schumacher? Senator Hadley. [LB84]

SENATOR HADLEY: That you, Chairman Dubas. Senator Schumacher, you know, looking at the bill, I agree with it. I think the reason that this might have been in, there was always the fear that since they are UTVs, utility-type vehicles, that they would be crossing any place the farmer happened to have a hole in the fence. They would go across the roads and get to the other side of the road, so to speak. But I think you put safeguards in there of where they can cross the controlled access. [LB84]

SENATOR SCHUMACHER: And I think, Senator Hadley, that actually the farmers are interpreting this as, not this bill, but the existing law has given the authority to scoot across four-lane roads out in the country. In fact, one of the reasons for the language clarification to go to the amendment was because there was several folks contacted the County Officials Association, contacted my office saying, my gosh, we don't want this to stop us from doing what we think we're doing legally now, and that's driving between our field on this side of the road and our field on that side of the road. And to make it perfectly clear that this bill had nothing to do with what they can or cannot legally do out in the country between their farms. It's specifically--and tried to be very clear--this only applies to those cases where there's a traffic light and where the local government says, you know, it looks safe to us. [LB84]

SENATOR HADLEY: Thank you. [LB84]

SENATOR DUBAS: Senator Brasch. [LB84]

SENATOR BRASCH: Thank you, Madam Chairman. And thank you, Senator Schumacher. Are there traffic lights at every mile marker? And when you say that and for agricultural use, I'm trying to think along the highway. There might not be one every mile that you'd have to take a detour or something to...or is that... [LB84]

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SENATOR SCHUMACHER: And I don't think...certainly, out in the country on four-lane roads like 81 or those, they're not traffic lights every mile. There may not be a traffic light for 20 miles. [LB84]

SENATOR BRASCH: Right. [LB84]

SENATOR SCHUMACHER: This is basically in a...for where there are traffic lights in town. I think for farmers, if you go through existing law, I think that they have some ability to cross four-lane roads already. But I have not particularly briefed that particular point as to where a farmer can cross. They are under the impression they can; I'll tell you that. But that isn't addressed by this amendment. So out in the country where there's not lights, if they can under existing law, they can still do it. And if they can't under existing law, then they can't still do it. But certainly out in the country there aren't... [LB84]

SENATOR HADLEY: Would that be on page 2, line 15, where they talked about outside the corporate limits of a city? [LB84]

SENATOR SCHUMACHER: Yes. I think that's what they're relying on. [LB84]

SENATOR HADLEY: I think that's it. [LB84]

SENATOR SCHUMACHER: If they're going to check pipe or take a bag or a block of salt out to the cows, they can do that. [LB84]

SENATOR BRASCH: Okay. Very good. I have no other questions. Thank you. [LB84]

SENATOR DUBAS: Other questions? I'm just going to kind of follow up on that to make sure I'm understanding. So what your amendment is saying is if they are in an area that does have a light, that's where they have to go. But if we look at this existing language, if they're out--you know, I'm thinking along 281 there's no lights on 281 once you get outside of Grand Island or any of the other cities along there--then they can cross anywhere? [LB84]

SENATOR SCHUMACHER: If it's incidental to agriculture. [LB84]

SENATOR DUBAS: They're just getting from one pasture to the other, they have to cross roads. [LB84]

SENATOR SCHUMACHER: Right. [LB84]

SENATOR DUBAS: But if there is a light... [LB84]

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SENATOR SCHUMACHER: They can for sure if they do it in accordance with the light and the local government says, fine with us. [LB84]

SENATOR DUBAS: Okay. All right. Any other questions? Senator Brasch. [LB84]

SENATOR BRASCH: Thank you, Madam Chairman. Thank you, Senator Schumacher. When you're saying these vehicles look like a small Jeep, small...what's the difference between these vehicles and a golf cart? [LB84]

SENATOR SCHUMACHER: These vehicles, I think, are a little bit bigger. [LB84]

SENATOR BRASCH: A little bit bigger. [LB84]

SENATOR SCHUMACHER: I think that's the basic difference between them and a golf cart. I wasn't bold enough to take on golf carts. [LB84]

SENATOR BRASCH: Okay. [LB84]

SENATOR SCHUMACHER: But as you know, there are lots and lots of towns where running around in golf carts is a very popular thing to do. And fortunately or unfortunately for them, most law enforcement is looking the other way. [LB84]

SENATOR BRASCH: It's contiguous to a golf course or adjacent to, but it sounded like you were describing almost a golf cart in your opening. [LB84]

SENATOR SCHUMACHER: These, I think, there's a technical distinction in the language between golf cart and utility-type vehicle and also a all-terrain vehicle. These are the things that, I like to say, look like a baby Jeep. And they're different than the others. [LB84]

SENATOR BRASCH: Very good. Thank you. [LB84]

SENATOR DUBAS: Senator Price. [LB84]

SENATOR PRICE: Thank you, Senator Dubas. And I appreciate that last comment you had there where ATVs because I, you know, the difference between a utility vehicle and an ATV, an ATV just hauls people, you know? And where a utility vehicle hauls other things. And in view of what they are, they can actually have small engines in them. They're not just electric, battery powered. And you'll see them when they go out hunting and things like that, again, around the farm. But you clarified, so thank you. [LB84]

SENATOR DUBAS: Any other questions? Thank you, Senator Schumacher. [LB84]

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SENATOR SCHUMACHER: Thank you. [LB84]

SENATOR DUBAS: Are you going to stay around to close? [LB84]

SENATOR SCHUMACHER: Well, I think so. [LB84]

SENATOR DUBAS: I don't think there are lot of people here that will be talking so we will see. Do we have proponents for LB84? Welcome. [LB84]

RICHARD SNYDER: Thank you, senators. My name is Richard, R-i-c-h-a-r-d, S-n-y-d-e-r, Snyder. And I'm from Columbus, Nebraska, and today I would like to take this opportunity and voice my support for this proposed legislation. Currently, in Columbus last year we had approximately over 70 of these type vehicles registered with the police department. They think...the police department thinks in Columbus, we may exceed 100 this year. Now I'm not here to tell you statewide how many of these are in existence. But I can tell you from talking with different dealers around the state, they tell me that they have become very popular and expect to sell more units and bring in revenue to the state via sales of these vehicles because of expanded use of them. Now the other facet I'd like to touch on one moment is in the particular case of Columbus. With the current legislation, we end up having to travel approximately an extra one-half mile every time we utilize them to stay off of the four-lane highway at the crossing. That simply uses up more gas and more time, and it certainly is a negative in the sense of using one of these vehicles. One of the discussions back when this legislation was brought up two years ago was the safety issue. And as a design engineer that has designed roads for over 30 years, I can tell you that in the Columbus case there has not been one incident of any type of accident involving UTVs in the community. I'm not here to speak beyond the city limits. My calls to other cities led me to believe that I could not find any other city--and I called five other cities--that the police department could tell me that there was an accident utilizing a UTV within their corporate limits. So I really do not think that the safety is an issue at this point. Again, I would like to wrap up my testimony by simply saying, I'm in full support of the legislation and would like to see it move forward. I'll be happy to take questions. [LB84]

SENATOR DUBAS: Very good. Thank you, Mr. Snyder. Are there questions? Seeing none, thank you for coming today. We appreciate it. [LB84]

RICHARD SNYDER: Thank you. [LB84]

SENATOR DUBAS: (Exhibit 3) Further proponents for LB84? Are there opponents? We have one letter for the record opposing LB84 from Robert Post in Gering, Nebraska. Anyone in the neutral? Seeing none, Senator Schumacher, you're welcome to close. [LB84]

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SENATOR SCHUMACHER: Thank you, Senator Dubas and members of the committee. This is probably an appropriate item if the committee either chooses to advance or lay over for next year to come up into when we resume our activities next year. It doesn't involve a fiscal note. I don't know if it'd be good for a consent calendar, but nevertheless if you have an omnibus type of bill that you're tweaking various traffic regulations or things like this, this would be probably a place to put it. It seems fairly common sense, and it basically just allows these things to be operated much as they become, apparently, the folks become accustomed to operating them in Arizona, and they apparently work fairly good there. And they'd like to do the same thing with their little Jeeps in Columbus and other towns. So it's a functional type of thing, and it probably makes common sense. Certainly what convinced me, somebody pointed out that they could roller skate across a safe intersection with safety and light. These things cannot go across. I really have a hard time explaining. So that will be all my comments. If there's any questions, I'll be happy to take them. [LB84]

SENATOR DUBAS: Any other questions for Senator Schumacher? Seeing none, thank you for bringing it to us. [LB84]

SENATOR SCHUMACHER: Thank you. [LB84]

SENATOR DUBAS: That will close our hearing on LB84, and now we will move on to LB223. Senator Janssen. [LB84]

SENATOR JANSSEN: Thank you, Senator Dubas and fellow members of the Transportation and Telecommunications Committee. For the record, I am Charlie Janssen, C-h-a-r-l-i-e J-a-n-s-s-e-n. I represent District 15 which is Fremont, all of Dodge County, and also includes the little village of Dodge. I appear to introduce LB223. LB223 would change the permissible length of a utility-type vehicle from 135 inches or less to 180 inches or less. I'd like to thank a District 15 equipment dealer for bringing this proposal to my attention. He informed me that there are several new models of utility-type vehicles available for purchase since it was last defined...since we last defined UTVs statutorily. Some new four-seat models of UTVs exceed the current 135-inch length limit. I do not want to artificially restrict our citizens' UTV options. Our laws should reflect current market opportunities. I hope we can quickly adopt this updated definition. As I understand it, our width and our weight definitions remain appropriate. I have contacted the Department of Motor Vehicles during that last interim to see if they had any concerns. They did not, and I appreciate their expertise and feedback at that time. I'd thank you for your consideration, and I'm certainly happy to answer any questions. [LB223]

SENATOR DUBAS: Thank you, Senator Janssen. Are there questions? So, just for the record, an example of a UTV would be like a Mule or one of those? [LB223]

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SENATOR JANSSEN: I saw one just today out in the parking lot, in the senators' lot. They were out there working. It would have fit within that 130 definition. [LB223]

SENATOR DUBAS: And they usually have some kind of a cover? [LB223]

SENATOR JANSSEN: They do. They have the safety devices on them. And the concern came to me from Johnson Cycle in Fremont about wanting to order these, but it wasn't legal for them to...I suppose they could sell them, but they couldn't use them in the same manner. It reminds me a lot of a legislation I had a few years ago in this committee dealing with the axle weight of certain trucks and emergency vehicles. A simple little tweak..it was a one-word law that we changed; an "a" to a "the" or a "the" to an "a" that allowed Smeal Manufacturing to now legally transport their fire trucks out of the state of Nebraska, which they'd been doing very quietly for several years prior to that. So they're selling them, but there's always that concern that an overzealous law enforcement official could utilize that specific law, which I don't know if they would necessarily know or not. But they could. So just... [LB223]

SENATOR DUBAS: So these are newer, more updated versions of... [LB223]

SENATOR JANSSEN: Yeah. They're for passengers in the back seat. [LB223]

SENATOR DUBAS: Uh-huh. [LB223]

SENATOR JANSSEN: It's essentially the seat in the back is added on instead of...a lot of times we just see a bucket in the back or whatnot. [LB223]

SENATOR DUBAS: Okay, very good. Other questions for Senator Janssen? Seeing none. [LB223]

SENATOR JANSSEN: Thank you. [LB223]

SENATOR DUBAS: Are there any proponents? Any opponents? Any neutral? Senator Janssen, do you want to close? [LB223]

SENATOR JANSSEN: I've got a very long closing. [LB223]

SENATOR DUBAS: That will close our hearing on LB223 and close the hearings for today. And if we could go into a quick Exec Session. [LB223]