HOUSE COMMITTEE ON STATE AND FEDERAL AFFAIRS

July 26, 2005 Hearing Room 357

11:00 A.M. Tapes 47 – 48

Corrected 10-17-05

MEMBERS PRESENT: Rep. Rep. Wayne Krieger, Chair

Rep. Rep. Jeff Barker, Vice-Chair

Rep. Brian Boquist, Vice-Chair

Rep. Linda Flores

Rep. Greg Macpherson

STAFF PRESENT: Heidi Moawad, Counsel Cletus Moore, Committee Administrator Joe O'Leary, Counsel Bill Taylor, Counsel Sandy Thiele-Cirka, Committee Administrator Louann Rahmig, Committee Assistant

MEASURES/ISSUES HEARD:

- SB 548A Work Session SB 660A – Work Session SB 1068A – Work Session SB 1067 – Work Session HB 3505 – Work Session SB 1083A – Work Session SB 899A – Work Session
- SB 408B Reconsideration and Work Session

SB 303 – Work Session HB 3507 – Work Session SB 907B – Work Session

These minutes are in compliance with Senate and House Rules. <u>Only text enclosed in quotation</u> <u>marks reports a speaker's exact words.</u> For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
TAPE 47,	Α	
004	Chair Krieger	Calls the meeting to order at 1:19 p.m. and opens a work session on SB 548A.
<u>SB 548A –</u>	- WORK SESSION	
008	Heidi Moawad	Counsel. Describes SB 548A which modifies the crime of interfering with a peace officer and is in response to an Oregon Supreme Court and Court of Appeals decision in 2004 that struck down portions of the existing peace officer statute. Refers to the -A6 amendments (EXHIBIT A) which resolve conflicts with HB 3379 that amended the "interfering with a peace officer" statute to include probation, parole and post-prison supervision officers. Details the -5 amendments (EXHIBIT B) which add portions of HB 2020, HB 2828A, HB 2974A and HB 3469A.
044	Moawad	Explains a new provision in SB 548A which creates a requirement for certain findings before the petitioner can subpoen the victim in cases of post-conviction relief.
058	Sen. Floyd Prozanski	Senate District 4. Provides an overview of SB 548A. Comments on work as a police commissioner. Cites the intent of SB 548A. Offers that SB 548A is a necessary and reasonable tool.
093	Sen. Prozanski	Indicates that the -A5 amendments may cause SB 548A to be referred to the budget committee.
100	Rep. Boquist	

MOTION: Moves to ADOPT SB 548A-6 amendments dated 7/26/05.

VOTE: 5-0-0

105	Chair Krieger	Hearing no objection, declares the motion CARRIED.
106	Rep. Boquist	MOTION: Moves to ADOPT SB 548A-5 amendments dated 7/19/05.
109	Rep. Macpherson	Explains his reasons for objecting to the -A5 amendments.
126	Chair Krieger	Notes the objection.
127	Chair Krieger	The motion CARRIES.
128	Rep. Boquist	MOTION: Moves SB 548A to the floor with a DO PASS AS AMENDED recommendation.
132	Rep. Barker	Explains his reason for objection.
133	Chair Krieger	Notes objection.
		VOTE: 3-2-0
		AYE: 3 - Boquist, Flores, Krieger
		NAY: 2 - Barker, Macpherson
137	Chair Krieger	The motion CARRIES.
		REP. FLORES & REP. BOQUIST will lead discussion on the floor.
139	Rep. Macpherson	Serves notice of a possible minority report.
140	Chair Krieger	Closes the work session on SB 548A. Announces that SB 572A will be carried over.
143	Chair Krieger	Opens a work session on SB 660A.

SB 660A – WORK SESSION

147	Cletus Moore	Committee Administrator. Explains SB 660A which requires a county board or local boundary commission to approve a petition for formation of a special district and clarifies the rules.
151	Rep. Boquist	MOTION: Moves SB 660A to the floor with a DO PASS recommendation and be placed on the CONSENT CALENDAR.
		VOTE: 5-0-0
		AYE: In a roll call vote, all members present vote Aye.
155	Chair Krieger	The motion CARRIES.
157	Chair Krieger	Closes the work session on SB 660A and opens a work session on SB 1068A.

SB 1068A - WORK SESSION

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166	Joe O'Leary	Counsel. Describes SB 1068A which requires a peace officer to arrest a person without a warrant if the officer has probable cause to believe that the person has been charged with an offense, is presently on pre-trial release pursuant to a release agreement, and the person has failed to comply with a "no contact" order pursuant to that agreement. Explains current law.
186	Rep. Boquist	MOTION: Moves SB 1068A to the floor with a DO PASS recommendation.
		VOTE: 5-0-0
		AYE: In a roll call vote, all members present vote Aye.
193	Chair Krieger	The motion CARRIES.
		REP. MACPHERSON will lead discussion on the floor.
196	Chair Krieger	Closes the work session on SB 1068A and opens a work session on SB 1067.

<u>SB 1067 – WORK SESSION</u>

198	Joe O'Leary	Counsel. Explains SB 1067 which expands the crime of telephonic harassment to include sending or leaving text messages, voice mails or any other messages knowing that the caller has been forbidden from doing so by a person exercising lawful authority over the receiving telephone. Details the -1 amendments (EXHIBIT C), the -2 amendments (EXHIBIT D) and the -3 amendments (EXHIBIT E).
249	Rep. Macpherson	Asks if there are other restrictions or penalty structures on debt collection activities.
255	O'Leary	Answers yes, both state and federal. Refers to ORS 646.642 for civil penalties, monetary compensation, attorney fees and punitive damages.
272	Rep. Boquist	MOTION: Moves to ADOPT SB 1067-2 amendments dated 7/25/05.
		VOTE: 5-0-0
275	Chair Krieger	Hearing no objection, declares the motion CARRIED.
276	Rep. Boquist	MOTION: Moves SB 1067 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-0-0
		AYE: In a roll call vote, all members present vote Aye.
280	Chair Krieger	The motion CARRIES.
		REP. BARKER will lead discussion on the floor.
295	Chair Krieger	Closes the work session on SB 1067 and opens a work session on HB 3505.

HB 3505 – WORK SESSION

		Committee Administrator. Explains HB 3505 which provides that a public body may condemn property only if the primary purpose for taking the property is to allow the property to be owned, maintained, occupied and used by the public for public purposes. Distributes the -3, -4, -5, -6, -7, -8, -9, -10 and -12 amendments (EXHIBIT F THROUGH EXHIBIT N).
319	Dave Heynderickx	Acting Legislative Counsel. Describes the amendments in detail. Informs that the: -3 amendments (EXHIBIT F) add to the types of things that are incidental to condemnation without prohibition on taking for private use; -4 amendments (EXHIBIT G) change the operative provisions of the bill to "owned and used;" -5 amendments (EXHIBIT H) address concerns relating to conveyance of the property.

TAPE 48, A

010	Heynderickx	Continues explanation of the: -6 amendments (EXHIBIT I) respond to concerns whether "blighted" or "slum" areas were broad enough; -7 amendments (EXHIBIT J) pick up a concept to indicate that a court would not defer to the public body determination on whether or not a particular case complies with requirements of the operative provisions; -8 amendments (EXHIBIT K) relate to applicability; -9 amendments (EXHIBIT L) are a substitute for current language on urban renewal provisions and provide public notice requirements.
080	Heynderickx	Concludes with the: -10 amendments (EXHIBIT M) apply to unimproved land zoned for industrial use on the effective date of the act; and -12 amendments (EXHIBIT N) exempt property condemned by the courts.
093	Rep. Macpherson	Comments on the good work to identify the problem areas. Asks about "friendly condemnation" under federal income tax law. Comments there may be no fix for that.
103	Heynderickx	Advises that he has not had anyone come forward with a solution to that problem. Continues that a waiver of some sort might be possible.
115	Rep. Boquist	Requests the rationale for the -10 and -12 amendments.
119	Heynderickx	Indicates that he was not part of the discussion.

125	Dave Hunnicutt	Oregonians in Action. States that the -10 amendments resolve the issue of condemnation of undeveloped industrial lands for the primary purpose of something other than the operation of a small business or a residential area. Advises that the -12 amendments address issues relating to condemnations by ports and port districts. Has no objection to the amendments.
142	Sen. Bruce Starr	Senate District 15. Comments on the -10 and -12 amendments. States that he doesn't believe the -12 amendments are necessary but doesn't oppose them. Encourages adoption of these amendments and moving HB 3505.
163	Rep. Macpherson	Comments that HB 3505 is getting better but is on the wrong course. States that the real issue is the taking of residential property from longtime residents. Continues that there is still no mechanism to deal with friendly condemnations. Believes they are reacting to a case across the country and no one has brought forward a case with similar concerns in Oregon. Has trouble with the bill.
186	Rep. Boquist	MOTION: Moves to ADOPT HB 3505-3 amendments dated 7/20/05.
		VOTE: 5-0-0
190	Chair Krieger	Hearing no objection, declares the motion CARRIED.
191	Rep. Boquist	MOTION: Moves to ADOPT HB 3505-4 amendments dated 7/25/05.
		VOTE: 5-0-0
193		
193	Chair Krieger	Hearing no objection, declares the motion CARRIED.
193	Chair Krieger Rep. Boquist	Hearing no objection, declares the motion CARRIED. MOTION: Moves to ADOPT HB 3505-5 amendments dated 7/25/05.
		MOTION: Moves to ADOPT HB 3505-5 amendments dated

197	Rep. Boquist	MOTION: Moves to ADOPT HB 3505-6 amendments dated 7/25/05.
		VOTE: 5-0-0
198	Chair Krieger	Hearing no objection, declares the motion CARRIED.
199	Rep. Boquist	MOTION: Moves to ADOPT HB 3505-7 amendments dated 7/25/05.
		VOTE: 5-0-0
201	Chair Krieger	Hearing no objection, declares the motion CARRIED.
202	Rep. Boquist	MOTION: Moves to ADOPT HB 3505-8 amendments dated 7/25/05.
		VOTE: 5-0-0
203	Chair Krieger	Hearing no objection, declares the motion CARRIED.
204	Rep. Boquist	MOTION: Moves to ADOPT HB 3505-9 amendments dated 7/26/05.
		VOTE: 5-0-0
205	Chair Krieger	Hearing no objection, declares the motion CARRIED.
207	Rep. Boquist	MOTION: Moves to ADOPT HB 3505-10 amendments dated 7/26/05.
		VOTE: 5-0-0
208	Chair Krieger	Hearing no objection, declares the motion CARRIED.
210	Rep. Boquist	MOTION: Moves to ADOPT HB 3505-12 amendments dated 7/26/05.

VOTE: 5-0-0

211	Chair Krieger	Hearing no objection, declares the motion CARRIED.
213	Rep. Boquist	MOTION: Moves HB 3505 to the floor with a DO PASS AS AMENDED recommendation.
215	Rep. Barker	Refers to the Supreme Court decision and advises that he will be a "soft" no and urges further corrections.
221	Chair Krieger	Notes objection.
		VOTE: 3-2-0
		AYE: 3 - Boquist, Flores, Krieger
		NAY: 2 - Barker, Macpherson
230	Chair Krieger	The motion CARRIES.
		REP. GARRARD & REP. BOQUIST will lead discussion on the floor.
232	Chair Krieger	Closes the work session on HB 3505 and opens a work session on SB 1083A.

SB 1083A - WORK SESSION

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238	Bill Taylor	Counsel. Explains SB 1083A which creates credit against personal and corporate income tax liability for increased labor costs associated with annual inflation based on increases in Oregon's minimum wage. <i>Note: the -A7, -A8, -A10 and -A11 amendments were previously distributed by staff</i> (EXHIBIT O THROUGH EXHIBIT R).
243	Rep. Boquist	MOTION: Moves SB 1083A to the floor with a DO PASS recommendation.
247	Rep. Macpherson	Requests an update on the cost of the bill. Refers to the revenue analysis that showed an impact and to testimony describing an interpretation that would increase that impact.

259	Taylor	Indicates that Paul Warner can address those questions.
268	Paul Warner	Legislative Revenue Office. Discusses the interpretations on who is eligible for the credit. Distributes and describes policy options (EXHIBIT S) .
308	Rep. Macpherson	Responds that there is quite a spread depending on the interpretation of eligibility. Asks how confident he is that the Senate interpretation will prevail.
324	Warner	Answers, not confident at all. Comments that Legislative Counsel needs to determine how the language is to be interpreted. Indicates that initially the interpretation was narrower. Continues that the number of eligible workers must be known to make estimates. Concludes that there are two issues: (1) minimum wage only, the minimum plus 50 cents, or all agricultural workers; or (2) incremental changes brought about by the indexing or starting from the \$6.90 base and adding to that. Believes the narrower interpretation will be challenged.
350	Rep. Macpherson	Comments that this is a serious issue. Requests Legislative Counsel assistance.
357	Dexter Johnson	Legislative Counsel. Offers assistance.
363	Rep. Macpherson	Asks about the interpretation that would be applied to this language.
370	Johnson	Responds that there is some legal risk that the larger revenue impact would be ultimately what the court would conclude the credit called for. Continues that the primary standard for judicial interpretation of statute is the words used and not the legislative record. States that the words talk about increases but do not mention annual increases so the court could construe that to mean all increases from a specific period.
396	Rep. Macpherson	Inquires if they could amend the bill to clearly reflect a specific interpretation.
402	Johnson	Answers they could.
405	Rep. Boquist	Confirms the interpretation by the revenue committee.
411	Warner	

		Responds that the numbers are what were in the revenue impact from the Senate.
418	Rep. Boquist	Asks if the Department of Revenue (DOR) testified before that committee.
421	Warner	Replies that the DOR had a similar interpretation.
TAPE 47, I	3	
004	Rep. Macpherson	Asserts that he can't vote for a bill that is subject to a \$114 million "swing" next biennium.
019	Chair Krieger	Closes the work session on SB 1083A and opens a work session on SB 899A which abolishes the Multnomah County Tax Supervising and Conservation Commission (TSCC); and allows any county with a population of 500,000 or more to establish a TSCC if the county obtains approval of the county governing body and taxing districts within the county.
<u>SB 899A – </u>	WORK SESSION	
026	Cletus Moore	Committee Administrator. Refers to the -A12 amendments (EXHIBIT T) which are a result of a work group addressing issues related to Washington County.
037	Rep. Macpherson	Asks if the -A12 amendments exempt counties under 500,000 population but retain the commission for Multnomah County.
043	Moore	Answers correct and allows a second option for how they can report.
046	Rep. Macpherson	Clarifies that Multnomah County continues to have their commission and the other counties can opt in.
049	Moore	Comments that there are no objections from Multnomah County to having a TSCC.
052	Rep. Macpherson	Responds that Multnomah County which is paying for the commission objects.

057	Rep. Boquist	MOTION: Moves to ADOPT SB 899A-12 amendments dated 7/20/05.
059	Rep. Macpherson	Objects as there should be one policy for all counties.
063	Rep. Boquist	MOTION: Moves SB 899A to the floor with a DO PASS AS AMENDED recommendation and the SUBSEQUENT REFERRAL to the Revenue Committee BE RESCINDED.
		VOTE: 4-1-0
		AYE: 4 - Barker, Boquist, Flores, Krieger
		NAY: 1 - Macpherson
072	Chair Krieger	The motion CARRIES.
		REP. FLORES will lead discussion on the floor.
084	Chair Krieger	Closes the work session on SB 899A and opens a work session on SB 408B which establishes legislative findings regarding public electric utility taxes; and requires public utilities to file an annual tax report to the Public Utility Commission and outlines the required report information.

SB 408B – RECONSIDERATION AND WORK SESSION

091	Rep. Boquist	MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote on SB 408B.
094	Chair Krieger	Explains that he asked SB 408B be returned to the committee to consider the -B22 amendments (EXHIBIT U).
		VOTE: 5-0-0
096	Chair Krieger	Hearing no objection, declares the motion CARRIED.
098	Rep. Boquist	MOTION: Moves to RECONSIDER the vote by which SB 408B was passed to the floor with a DO PASS recommendation.

VOTE: 5-0-0

101	Chair Krieger	Hearing no objection, declares the motion CARRIED.
103	Rep. Boquist	MOTION: Moves to ADOPT SB 408B-22 amendments dated 7/25/05.
104	Rep. Macpherson	Requests an explanation of the amendments.
113	Mark Nelson	Industrial Customers of Northwest Utilities (ICNU). Testifies in support of the -B22 amendments.
117	Rep. Macpherson	Comments on the work that resulted in the version that was previously reported out of this committee which attempted to deal with constitutional issues where there was asymmetry.
131	Mike Early	Executive Director, ICNU. Advises that the -B22 amendments provide for adjustments to the rates either up or down. Explains the differences between the -B20 and -B22 amendments.
171	Rep. Macpherson	Asks about the effect of consolidation that causes income generated out of the regulated operations to be subject to a higher rate because it is combined with a larger base of income.
179	Early	Responds that is up to the commission's judgment. Elaborates on circumstances.
194	Rep. Macpherson	Comments on the input from the Department of Justice on the prior version of the bill.
199	Chair Krieger	Doesn't think there ever will be agreement. Continues that there is no position of right so it will end up in court, and those attorneys will make the determinations beyond what we can make.
209	Rep. Macpherson	Offers that there is another solution to the problem.
		VOTE: 5-0-0
221	Chair Krieger	Hearing no objection, declares the motion CARRIED.

223	Rep. Boquist	MOTION: Moves SB 408B to the floor with a DO PASS AS AMENDED recommendation and the SUBSEQUENT REFERRAL to the Budget Committee BE RESCINDED.
231	Rep. Macpherson	Explains the reason for his no vote.
237	Chair Krieger	Notes the objection.
		VOTE: 4-1-0
		AYE: 4 - Barker, Boquist, Flores, Krieger
		NAY: 1 – Macpherson
240	Chair Krieger	The motion CARRIES.
		REP. BOQUIST will lead discussion on the floor.
242	Chair Krieger	Closes the work session on SB 408B.
274	Chair Krieger	Opens a work session on SB 303.
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<u>SB 303 - V</u>	WORK SESSION	
276	Sandy Thiele-Cirka	Committee Administrator. Explains SB 303 which abolishes the Insurance Pool Governing Board (IPGB) and creates the Office of Private Health Partnerships. Reminds the committee that the -1 amendments were previously adopted. Refers to the -2 amendments (EXHIBIT V) which resolve conflicts with other bills that refer to the IPGB. Points out the subsequent referral to Ways and Means that can be rescinded.
292	Rep. Boquist	MOTION: Moves to ADOPT SB 303-2 amendments dated 7/25/05.
		VOTE: 5-0-0
297	Chair Krieger	Hearing no objection, declares the motion CARRIED.

		MOTION: Moves SB 303 to the floor with a DO PASS AS AMENDED recommendation and the SUBSEQUENT REFERRAL to the committee on Ways and Means BE RESCINDED.
		VOTE: 4-0-1
		AYE: In a roll call vote, all members present vote Aye.
		EXCUSED: 1 – Flores
316	Chair Krieger	The motion CARRIES.
		REP. MACPHERSON will lead discussion on the floor.
319	Chair Krieger	Closes the work session on SB 303 and opens a work session on HB 3507.
<u>HB 3507 –</u>	WORK SESSION	
321	Heidi Moawad	Counsel. Explains that HB 3507 increases mandatory minimum sentences and extends periods of post-prison supervision for persons convicted of rape in the first degree, sodomy in the first degree or unlawful sexual penetration in the first degree. Refers to the -1 amendments (EXHIBIT W) that increase mandatory minimum sentences from 100 months to 300 months when the victim is under 12 years of age; excludes from the mandatory minimum sentences the increase if committed by a defendant less than 18 years of age; and establishes authority for lifetime post-prison supervision.
342	Rep. Kevin Cameron	House District 19. Is available to answer questions.
349	Rep. Boquist	Confirms the -1 amendments.
351	Chair Krieger	Answers yes.
353	Rep. Macpherson	Asks if the major increase in mandatory minimums for certain offenses will cause a fiscal impact.

360	Moawad	Informs that a fiscal impact will occur in the Department of
		Corrections (DOC) eight plus years from now.

377	Rep. Macpherson	Inquires if the indeterminate impact is because it is too far in the future or if it is uncertain.
380	Moawad	Responds both. Explains the DOC impact and the possibility of additional trials.
389	Chair Krieger	Advises of a work group to take a comprehensive look at all the statutes like was done with methamphetamine.
TAPE 48,	В	
010	Rep. Macpherson	Believes that is a good idea. Wonders if a bill should be passed on a single issue before undertaking that effort.
018	Chair Krieger	Indicates the sentiment is to do something now realizing that it will be revisited.
021	Rep. Macpherson	Registers concern and plans to oppose the bill.
024	Rep. Boquist	MOTION: Moves to ADOPT HB 3507-1 amendments dated 7/20/05.
026	Rep. Macpherson	Objects.
027	Chair Krieger	Notes objection.
		VOTE: 4-1-0
		AYE: 4 - Barker, Boquist, Flores, Krieger
		NAY: 1 - Macpherson
028	Chair Krieger	The motion CARRIES.
029	Rep. Boquist	MOTION: Moves HB 3507 to the floor with a DO PASS AS AMENDED recommendation.
033	Rep. Barker	Discusses the victimization of children under the age of 12.

041	Rep. Macpherson	Responds that they need to look at DOC facilities as an expensive resource and need to see where the beds are going to come from. Reiterates the need for a comprehensive review.
		VOTE: 4-1-0
		AYE: 4 - Barker, Boquist, Flores, Krieger
		NAY: 1 - Macpherson
051	Chair Krieger	The motion CARRIES.
		REP. PATTI SMITH will lead discussion on the floor.
054	Chair Krieger	Closes the work session on HB 3507 and opens a work session on SB 907B.
<u>SB 9071</u>	<u>B – WORK SESSION</u>	
056	Heidi Moawad	Counsel. Makes a presentation to Chair Krieger from the Judiciary Committee staff.
064	Moawad	Explains that SB 907B is the Senate half of the methamphetamine package which modifies crimes of criminal mistreatment in the first degree and child neglect in the first degree to include leaving in an individual in a place where methamphetamine is manufactured; modifies the definition of abuse to include exposure to controlled substances; clarifies the court's ability to suspend child visitation if the parent's controlled substance abuse is not in the best interests of the child. Explains the need to rescind the referral to budget.
088	Chair Krieger	Acknowledges the work done by Rep. Macpherson and Counsel Moawad. Stresses that in addition to enhancing penalties they recognize that part of the incentive is to get people into recovery programs.
105	Rep. Macpherson	Comments that this legislation is a highlight of the session due to bipartisan participation to solve a problem.
109	Chair Krieger	Shares comments from both parties.
116	Rep. Boquist	

		MOTION: Moves SB 907B to the floor with a DO PASS recommendation and the SUBSEQUENT REFERRAL to the committee on budget BE RESCINDED.
		VOTE: 5-0-0
		AYE: In a roll call vote, all members present vote Aye.
119	Chair Krieger	The motion CARRIES.
		REP. KRIEGER & REP. MACPHERSON will lead discussion on the floor.
121	Chair Krieger	Announces the possible reconsideration of SB 548A.
131	Chair Krieger	Adjourns the meeting at 2:50 p.m.

EXHIBIT SUMMARY

- A. SB 548, -A6 amendments, staff, 2 pp
- B. SB 548, -A5 amendments, staff, 16 pp
- C. SB 1067, -1 amendments, staff, 1 p
- D. SB 1067, -2 amendments, staff, 1 p
- E. SB 1067, -3 amendments, staff, 1 p
- F. HB 3505, -3 amendments, staff, 1 p
- G. HB 3505, -4 amendments, staff, 1 p
- H. HB 3505, -5 amendments, staff, 1 p
- I. HB 3505, -6 amendments, staff, 1 p
- J. HB 3505, -7 amendments, staff, 1 p
- K. HB 3505, -8 amendments, staff, 1 p
- L. HB 3505, -9 amendments, staff, 1 p
- M. HB 3505, -10 amendments, staff, 1 p
- N. HB 3505, -12 amendments, staff, 1 p
- O. SB 1083, -A7 amendments, staff, 1 p
- P. SB 1083, -A8 amendments, staff, 1 p
- Q. SB 1083, -A10 amendments, staff, 1 p
- R. SB 1083, -A11 amendments, staff, 1 p
- S. SB 1083, policy options, Paul Warner, 2 pp
- T. SB 899, -A12 amendments, staff, 2 pp
- U. SB 408, -B22 amendments, staff, 9 pp
- V. SB 303, -2 amendments, staff, 18 pp

W. HB 3507, -1 amendments, staff, 5 pp