

**SENATE COMMITTEE ON WATER AND LAND USE**

**April 27, 1999 Hearing Room B**

**1:00 p.m. Tapes 72-73**

**MEMBERS PRESENT: Sen. Veral Tarno, Chair**

**Sen. Tony Corcoran, Vice-Chair**

**Sen. Gary George**

**Sen. Marylin Shannon**

**Sen. Thomas Wilde**

**STAFF PRESENT: Raymond J. Kelly, Administrator**

**Diana Bronson, Administrative Support**

**MEASURE/ISSUES HEARD: SB 511 Work Session**

**SB 656 Work Session**

**SB 1184 Work Session**

**SB 1187 Work Session**

**SB 1258 Work Session**

**SB 1220 Work Session**

**SB 759 Public Hearing and Work Session**

**SB 838 Public Hearing and Work Session**

**SB 886 Public Hearing**

**SB 959 Public Hearing and Work Session**

**SB 989 Public Hearing and Work Session**

**SB 1189 Public Hearing and Work Session**

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

TAPE/#	Speaker	Comments
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**TAPE 71, A**

003	Chair Tarno	Opens meeting at 1:21 p.m. and states there are housekeeping issues to address. States SB 299 will not be heard this afternoon and will be carried over. States SB 409 is not going to be heard today as a duplicative bill has been passed and SB 494 has been pulled at the request of proponents. Opens work session on SB 511.
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**SB 511 WORK SESSION**

013	Ray Kelly	Committee Administrator. Summarizes SB 511.
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023	Chair Tarno	Asks if there are amendments to SB 511.
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025	Kelly	Replies there are no amendments.
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025	Sen. Corcoran	<b>MOTION: Moves SB 511 to the floor with a DO PASS recommendation.</b>
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**VOTE: 4-0**  
**AYE: In a roll call vote, all members present vote Aye.**  
**EXCUSED: 1 - George**

	<b>Chair Tarno</b>	<b>The motion CARRIES.</b> <b>SEN. BEYER will lead discussion on the floor.</b>
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031	Chair Tarno	Closes work session on SB 511 and opens work session on SB 656.
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**SB 656 WORK SESSION**

033	Kelly	Summarizes SB 656 and states there are ñ1 amendments provided by Sen. Shannon's staff. Submits ( <b>EXHIBIT A</b> ).
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038	Sen. Shannon	States the ñ1 amendments allow due process when local governments fail to give notice or comply with their own ordinances. States the amendments address the true concerns that were brought to the committee's attention last week that the former bill did not address.
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042	Chair Tarno	Asks if it is for the constituents Sen. Shannon brought in last week.
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043	Sen. Shannon	Agrees and states SB 656 with the ñ1 amendments is a good bill.
045	Sen. Shannon	<b>MOTION: Moves to ADOPT SB 656-1 amendments dated 04/27/99.</b>
		<b>VOTE: 4-0</b> <b>EXCUSED: 1 ñ George</b>
	Chair Tarno	<b>Hearing no objection, declares the motion CARRIED.</b>
047	Sen. Shannon	<b>MOTION: Moves SB 656 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 ñ George</b>
	Chair Tarno	<b>The motion CARRIES.</b>  <b>SEN. SHANNON will lead discussion on the floor.</b>
050	Sen. Corcoran	States he is still confused regarding the issue of notice
057	Sen. Shannon	States SB 656 was brought forward by neighbors in her district who were never given the proper notice.
060	Sen. Tarno	Explains the 120-day rule of notice.
063	Sen. Corcoran	Asks if the counties are in agreement.
063	Sen. Tarno	Calls Art Schlack and asks for comments.
065	Art Schlack	Association of Oregon Counties (AOC). States the AOC has no objections to SB 656.
082	Chair Tarno	Closes work session on SB 656 and opens work session on SB 1184.

**SB 1184 WORK SESSION**

084	Kelly	Summarizes SB 1184. States there are ñ1 amendments. Submits <b>(EXHIBIT B)</b> .
102	Chair Tarno	Asks Chandler to explain the ñ1 amendments.
102	Jon Chandler	Oregon Building Industry Association. Explains the changes in SB 1184 with the ñ1 amendments.
125	Chair Tarno	Asks if the cities and counties are in agreement with the ñ1 amendments.
126	Chandler	Replies they are in agreement.
131	Chair Tarno	Asks Schlack to review the ñ1 amendments and let the committee know if there are problems.
159	Chandler	States that for the record, he has been asked to indicate the ñ1 amendments appear to be in order for the cities and counties.
163	Sen. Corcoran	<b>MOTION: Moves to ADOPT SB 1184-1 amendments dated 04/27/99.</b>
		<b>VOTE: 4-0</b> <b>EXCUSED: 1 ñ George</b>
	Chair Tarno	<b>Hearing no objection, declares the motion CARRIED.</b>
165	Sen. Corcoran	<b>MOTION: Moves SB 1184 to the floor with a DO PASS AS AMENDED recommendation.</b>
165		<b>VOTE: 4-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 ñ George</b>
	Chair Tarno	<b>The motion CARRIES.</b>  <b>SEN. GEORGE will lead discussion on the floor.</b>

171	Chair Tarno	Closes work session on SB 1184 and opens work session on SB 1187.
<b><u>SB 1187 WORK SESSION</u></b>		
174	Kelly	Summarizes SB 1187.
183	Chair Tarno	Asks if there amendments.
183	Kelly	States there are ñ2 amendments. Submits <b>(EXHIBIT C)</b> .
185	Chair Tarno	Asks Jerry Schmidt to explain the ñ2 amendments to SB 1187.
186	Jerry Schmidt	Oregon Association of Realtors (OAR). Reads new language to be added into SB 1187.
223	Sen. Corcoran	Asks if SB 1187 will allow for more land to come under development next to urban growth boundaries and prime agricultural and forest lands.
230	Schmidt	States that is not his understanding and the OARís legal counsel has spoken with Metroís counsel and there was an agreement between the two parties. States, for the record, that if there are any problems, the OAR will amend and work out any difficulties Metro may find with the ñ2 amendments.
247	Sen. Wilde	States he cannot imagine why the OAR would need to go through the exceptions process within an urban reserve. States there may be an exceptional case, but does not think so.
254	Bob Rindy	Department of Land Conservation and Development (DLCD). States that Goal 14 is the underpinning of the urban reserve rule. States he just spoke with Metro and they are concerned as to how SB 1187 may effect the urban reserve and Goal 14.
283	Sen. Wilde	<b>MOTION: Moves to ADOPT SB 1187-2 amendments dated 4/27/99.</b>
		<b>VOTE: 5-0</b>
	<b>Chair Tarno</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
286	Sen. Wilde	<b>MOTION: Moves SB 1187 to the floor with a DO PASS AS AMENDED recommendation.</b>

		<p><b>VOTE: 4-1</b></p> <p><b>AYE: 4 - Corcoran, George, Wilde, Tarno</b></p> <p><b>NAY: 1 ñ Shannon</b></p>
	<b>Chair Tarno</b>	<p><b>The motion CARRIES.</b></p> <p><b>SEN. WILDE will lead discussion on the floor.</b></p>
300	Chair Tarno	Closes work session on SB 1187 and opens work session on SB 1258.
<b><u>SB 1258 WORK SESSION</u></b>		
301	Kelly	Summarizes SB 1258. States SB 1258 was heard on April 22, 1999.
315	Sen. George	States amendments are being drawn up for SB 1258.
317	Chair Tarno	Asks if they are done.
318	Sen. George	Replies no.
319	Chair Tarno	Closes work session on SB 1258 and opens work session on SB 1220.
<b><u>SB 1220 WORK SESSION</u></b>		
327	Kelly	Summarizes SB 1220.
337	Chair Tarno	States there are no amendments to SB 1220.
338	Sen. Corcoran	Apologizes and states he has the ñ1 amendments for SB 1220. States he did not realize they were not distributed. Submits <b>(EXHIBIT D)</b> .
342	Chair Tarno	States the committee is at ease while the amendments are being copied.
375	Sen. Corcoran	States the ñ1 amendments were drafted to satisfy concerns from the Watershed Council, but in looking at them, the ñ1 amendments are merely changing "practical" to "practicable" and making other simple housekeeping word changes.

394	Sen. Corcoran	<b>MOTION: Moves to ADOPT SB 1220-1 amendments dated 4/22/99.</b>
		<b>VOTE: 5-0</b>
	Chair Tarno	<b>Hearing no objection, declares the motion CARRIED.</b>
398	Sen. Corcoran	<b>MOTION: Moves SB 1220 be sent to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b>
	Chair Tarno	<b>The motion CARRIES.</b>  <b>SEN. CORCORAN will lead discussion on the floor.</b>
404	Chair Tarno	Closes work session on SB 1220 and opens public hearing on SB 759.
<b><u>SB 759 PUBLIC HEARING</u></b>		
419	Kelly	Summarizes SB 759.
426	Jan Lee	Oregon Water Resources Congress. Presents <b>(EXHIBIT E)</b> . Reads testimony in support of SB 759. States SB 759 is specific and clear as to what the requirements are that need to be met for subdivisions to receive water delivery from the district. States, to her knowledge, no one opposes SB 759.
462	Chair Tarno	Closes public hearing and opens work session on SB 759.
<b><u>SB 759 WORK SESSION</u></b>		
467	Sen. Corcoran	<b>MOTION: Moves SB 759 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 5-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b>

	<b>Chair Tarno</b>	<b>The motion CARRIES.</b>  <b>SEN. TARNO will lead discussion on the floor.</b>
<b>TAPE 73, A</b>		
020	Chair Tarno	Closes work session on SB 759 and opens public hearing on SB 838.
<b><u>SB 838 PUBLIC HEARING</u></b>		
022	Kelly	Summarizes SB 838. Submits <b>(EXHIBIT F)</b> .
029	Ray Phelps	Metro. Presents <b>(EXHIBIT G)</b> with maps. States that Metro requested this legislation so Metro can more effectively administer its Open Spaces, Parks and Streams program. Reads testimony in support of SB 838.
062	Chair Tarno	Asks if anyone opposes SB 838.
062	Phelps	Replies that he has spoken with various interest groups and he is unaware of any opposition.
069	Chair Tarno	Asks Phelps for explanation of the ñ1 amendments.
070	Phelps	States that the ñ1 amendments were necessary to accommodate the different interest groups. States the original proposal was too aggressive and unnecessary.
078	Chair Tarno	Closes public hearing and opens work session on SB 838.
<b><u>SB 838 WORK SESSION</u></b>		
<b>081</b>	<b>Sen. Wilde</b>	<b>MOTION: Moves to ADOPT SB 838-1 amendments dated 4/27/99.</b>
		<b>VOTE: 4-0</b>  <b>EXCUSED: 1 ñ Corcoran</b>
	<b>Chair Tarno</b>	<b>Hearing no objection, declares the motion CARRIED.</b>



083	Sen. Wilde	<b>MOTION: Moves SB 838 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 n Corcoran</b>
	Chair Tarno	<b>The motion CARRIES.</b>  <b>SEN. WILDE will lead discussion on the floor.</b>
091	Chair Tarno	Closes work session on SB 838 and opens public hearing on SB 886.
<b><u>SB 886 PUBLIC HEARING</u></b>		
095	Kelly	Summarizes SB 886.
100	Helen Lottridge	Management Services Division Administrator for the Department of Environmental Quality (DEQ). Presents <b>(EXHIBIT H)</b> . Reads testimony in opposition to SB 886. States SB 886 places three restrictions on the DEQ to collect fees for licenses or permits.
164	Sen. George	Asks for the DEQ's revenues.
169	Lottridge	Replies she does not have them and there is no way of knowing without a full analysis.
172	Sen. George	Asks what roughly "half" would be.
173	Lottridge	States she cannot even give that figure. Gives an explanation of how the DEQ figures the "roughly half" statement in testimony.
195	Sen. Bill Fisher	Senate District 23. Testifies in support of SB 886. States a discussion is needed to get permits distributed in a reasonable amount of time. Describes a situation of industrial waste due to a lack of timely permitting.
288	Sen. Fisher	Explains that SB 886 may get permits issued quickly and has no objections to working with the DEQ on amendments.
344	Chair Tarno	States the committee's time frame is tight. Asks Sen. Fisher for ideas and to

		work on amendments with the DEQ and get back to the committee.
353	Sen. Fisher	Appreciates the opportunity and feels something needs to be done and a dialogue is a start. States he is serious about government agencies holding up private businesses. States this is a start and there are three or four other agencies he would like to see under this same provision.
387	Martha Pagel	Water Resources Department (OWRD). Presents <b>(EXHIBIT I)</b> . States she appreciates the thoughts of Sen. Fisher and possibly the OWRD will not need to be involved. States the OWRD is meeting the statutory deadlines and the fees collected for water right application permits are according to the negotiated set of fees that went along with the major overhaul in 1995 with SB 674.
439	Pagel	States the applicant pays far below processing costs. States the OWRD has a process for being timely and earning the fees charged. States that if the person does not ultimately receive the water right, they do not pay the filing or recording fees that would normally be required.
461	Sen. Corcoran	Asks if the OWRD is going to sell out and leave the DEQ to hold the bag.
463	Pagel	Replies this is why she put in the policy issues and would never dream of selling out her "sister" agency.
475	Sen. Wilde	Makes observation and states, personally, he would remove Water Resources from SB 886 as there are timelines that are set in statute.
<b>TAPE 72, B</b>		
034	Chair Tarno	Closes public hearing on SB 886 and opens public hearing on SB 959.
<b><u>SB 959 PUBLIC HEARING</u></b>		
038	Kelly	Summarizes SB 959. States SB 959 was heard on April 22, 1999.
048	Chair Tarno	Asks Pagel if the committee has amendments to SB 959.
053	Pagel	Submits <b>(EXHIBIT J)</b> . Describes the 11 amendments to SB 959. States SB 959 was brought to the committee by a group in the Deschutes Basin to give assistance in developing an acceptable mitigation plan as a demonstration project by September 1, 2000.
077	Jill Zarnowitz	Oregon Department of Fish and Wildlife. Presents <b>(EXHIBIT K)</b> . Testifies that the department supports the group in the Deschutes Basin and the project has been going very well.

087	Chair Tarno	Asks Pagel if the sponsor has approved of the ñ1 amendments.
088	Pagel	Replies that Sen. Bryant is in agreement with the ñ1 amendments.
090	Chair Tarno	Closes public hearing and opens work session on SB 959.
<b><u>SB 959 WORK SESSION</u></b>		
092	Sen. Corcoran	<b>MOTION: Moves to ADOPT SB 959-1 amendments dated 4/27/99.</b>
		<b>VOTE: 4-0</b> <b>EXCUSED: 1 ñ George</b>
Chair Tarno		<b>Hearing no objection, declares the motion CARRIED.</b>
094	Sen. Corcoran	<b>MOTION: Moves SB 959 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 ñ George</b>
Chair Tarno		<b>The motion CARRIES.</b> <b>SEN. BRYANT will lead discussion on the floor.</b>
101	Chair Tarno	Closes work session on SB 959 and opens public hearing on SB 989.
<b><u>SB 989 PUBLIC HEARING</u></b>		
103	Kelly	Summarizes SB 989.
110	Chair Tarno	States the committee is at ease.
131	Glen Stonebrink	Oregon Cattlemenís Association. Presents <b>(EXHIBIT L)</b> . Describes SB 989 in

		detail and states that the bill reinstates the right of consent or dissent to the Oregon State Legislature, as provided by the United States Constitution concerning lands proposed to be purchased by the federal government. States the county governments must also consent to land purchase.
144	Chair Tarno	Asks Stonebrink to hold his testimony while the committee comes back into the hearing room.
155	Stonebrink	Continues testimony in support of SB 989.
191	Chair Tarno	Asks what has happened to bring SB 989 forward.
192	Stonebrink	Replies that there were two things. First was in President Clinton's address, wherein he stated that he wanted \$1 billion to obtain more land for wildlife refuge. Secondly, there is House Resolution 707 before Congress right now to take offshore oil and gas royalties and earmark at least \$378 million of those dollars per year, to acquire more private lands within states for a lot of reasons but, primarily, for wildlife habitat.
203	Chair Tarno	Notes that SB 989 would give the counties and state government the ability to enter into that dialogue regarding the purchase of state land.
206	Stonebrink	States that is correct and constitutionally, by removing the statute, it puts the authority back into the hands of the legislature as designed by the makers of the U.S. Constitution. States it is not up to the federal government to own large amounts of state land.
221	Sen. Corcoran	Asks Stonebrink to explain the repeal of 272.030 and 272.050 of the U. S. Constitution, provided in <b>EXHIBIT L</b> .
224	Stonebrink	States that 272.030 is the part that gives consent for the United States to acquire land for public buildings.
225	Sen. Corcoran	Asks if it is Stonebrink's opinion to not give consent.
226	Stonebrink	Replies that is correct because no one knows what it might entail besides the public buildings.
228	Sen. Corcoran	Asks if it has done anything in the past.
229	Stonebrink	Replies that public buildings can be such things as buildings that might be put on game refuges, and if there is exclusive legislative authority, the federal government might not need to obey our land use laws.
235	Sen. Corcoran	Asks if post offices would be included.

235	Stonebrink	States that any public building would need to obey Oregon's land use laws.
238	Sen. Corcoran	States SB 989 seems to be a law in search of a problem. Asks if Stonebrink is sure all his landowners out in eastern Oregon are sure of what he is doing here.
244	Stonebrink	Replies that this is exactly what has happened in our state in several cases where a group purchases a ranch, which happens to have a lot of wet areas, and then that group will, for a handsome brokerage fee, sell the ranch to the federal government. Explains that then that land is taken off the tax rolls of that county. States a lot of the counties are hurting because there is no tax base left.
265	Sen. Corcoran	Asks for the intent of Section 2, line 15 of SB 989.
271	Stonebrink	Replies that Section 2 has been removed in the n2 amendments.
281	Rep. Ken Messerle	House District 48. States he got involved at the request of a county commissioner. States that as federal agencies come in and buy more and more land, it hurts the counties by taking the land off the tax rolls and by taking it out of production. States the land is better protected and managed if done by local agencies. States he feels this is an important bill and should be adopted.
340	Kelly	Submits the n2 amendments ( <b>EXHIBIT M</b> ).
359	Chair Tarno	Closes public hearing on SB 989 and opens work session.
<b><u>SB 989 WORK SESSION</u></b>		
367	Sen. Shannon	<b>MOTION: Moves to ADOPT SB 989-2 amendments dated 4/21/99.</b>
		<b>VOTE: 4-0</b> <b>EXCUSED: 1 n George</b>
Chair Tarno		<b>Hearing no objection, declares the motion CARRIED.</b>
372	Sen. Shannon	<b>MOTION: Moves SB 989 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 n George</b>

	<b>Chair Tarno</b>	<b>The motion CARRIES.</b>  <b>SEN. SHANNON will lead discussion on the floor.</b>
379	Chair Tarno	Closes work session on SB 989 and opens public hearing on SB 1189.
<b><u>SB 1189 PUBLIC HEARING</u></b>		
386	Kelly	Summarizes SB 1189. States the committee heard testimony on SB 1189 on April 22, 1999. Submits the ñ2 amendments ( <b>EXHIBIT N</b> ).
399	John Ledger	Association of Oregon Industries (AOI). States SB 1189 deals with enforcement procedures by the DEQ. States the ñ2 amendments reflect the discussions with DEQ and are primarily refinements. States there is no opposition to SB 1189.
428	Chair Tarno	Asks for confirmation that the ñ2 amendments have been agreed upon.
430	Lori Aunan	DEQ. States the ñ2 amendments are those that were discussed and agreed to by DEQ and the proponents of the bill. States that the DEQ informed AOI that the costs of SB 1189 will be monitored and, if needed, the DEQ may come back and ask for cost recovery.
460	Larry Knudsen	Department of Justice, on behalf of DEQ. States they are in support of SB 1189, but there is a certain amount of uncertainty.
<b>TAPE 73, B</b>		
027	Chair Tarno	States that in the interim, there will be an Agriculture and Resources Committee working on a variety of issues and, if the DEQ has problems with SB 1189, they may bring those problems to the attention of that committee and, possibly, those concerns can be addressed.
033	Aunan	Thanks the chair.
033	Sen. Corcoran	Asks how many applications the DEQ think they will get in a biennium.
035	Aunan	Replies that the enforcement division looked at this, and could only come up with guesses, but guessed there were potentially 40 cases per biennium.
042	Sen. Corcoran	States he wanted to get that on the record to reinforce the issue as to costs.

043	Ledger	Interjects that the cost issue has more to do with legal costs.
049	Chair Tarno	Closes public hearing on SB 1189 and opens work session.
<b><u>SB 1189 WORK SESSION</u></b>		
052	Sen. Corcoran	<b>MOTION: Moves to ADOPT SB 1189-2 amendments dated 4/27/99.</b>
		<b>VOTE: 4-0</b> <b>EXCUSED: 1 ñ George</b>
Chair Tarno		<b>Hearing no objection, declares the motion CARRIED.</b>
054	Sen. Corcoran	<b>MOTION: Moves SB 1189 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 ñ George</b>
Chair Tarno		<b>The motion CARRIES.</b>  <b>SEN. TARNO will lead discussion on the floor.</b>
060	Chair Tarno	Closes work session on SB 1189 and adjourns meeting at 2:54 p.m.

Submitted By, Reviewed By,

Diana Bronson, Raymond J. Kelly,  
Administrative Support Administrator

**EXHIBIT SUMMARY**

**A ñ SB 656, proposed amendments, staff, 2 pp.**

**B ñ SB 1184, proposed amendments, staff, 1 p.**

**C ñ SB 1187, proposed amendments, staff, 1 p.**

**D ñ SB 1220, proposed amendments, staff, 1 p.**

**E ñ SB 759, written testimony, Jan Lee, 1 p.**

**F ñ SB 838, proposed amendments, staff, 2 pp.**

**G ñ SB 838, written testimony and aerial maps, Ray Phelps, 4 pp.**

**H ñ SB 886, written testimony, Helen Lottridge, 4 pp.**

**I ñ SB 886, written testimony, Martha Pagel, 4 pp.**

**J ñ SB 959, proposed amendments, staff, 1 p.**

**K ñ SB 959, written testimony, Jill Jarnowitz, 1 p.**

**L ñ SB 989, written testimony, Glen Stonebrink, 2 pp.**

**M ñ SB 989, proposed amendments, staff, 1 p.**

**N ñ SB 1189, proposed amendments, staff, 2 pp.**