

PUBLIC HEARING, POSSIBLE

WORK SESSION ON HB 2050 A HJR 85 A AND HB 3511 A

TAPES 080 - 084 A/B

**SENATE REVENUE COMMITTEE**

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**MARCH 18, 1997 - 9:00 A.M. - HEARING ROOM A - STATE CAPITOL BUILDING**

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Members Present: Sen. Ken Baker, Chair (Absent from 7:10 to adjournment)

Sen. Neil Bryant, Vice Chair

Sen. Joan Dukes

Sen. Verne Duncan

Sen. Tom Hartung

Sen. Randy Leonard (arrived at 9:20 a.m.)

Witnesses: John DiLorenzo, Attorney, Portland

Roy Pulvers, Staff Attorney to Oregon Supreme Court

Rep. Cynthia Wooten, District 41

Bob Cantine, Association of Oregon Counties

Bill Sizemore

B. J. Smith, Clackamas County

Carole Samuels, League of Oregon Cities

Pete Castine, Deputy City Attorney, City of Portland

John DiLorenzo, Attorney, Portland

Lincoln Cannon, Forest Resource and Taxation Director for Oregon Forest Industries Council

Staff: Jim Scherzinger, Legislative Revenue Officer

Carol Phillips, Committee Assistant

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**TAPE 080, SIDE A**

005 Chair  
Baker            Opened meeting at 9:11 a.m.

Exhibit A - Staff Measure Summary. Exhibit B - Revenue Impact Statement. Exhibit C - Fiscal Impact Statement. HB 2050 does two things that deal with two different kinds of actions. First, the bill requires that any circuit court actions seeking to invalidate Measure 47 on constitutional grounds must be filed in Marion County. Second, for any of these actions it allows a direct appeal of the decision to the Supreme Court if the action was filed before or within 180 days after the act's effective date.

013 Scherzinger

It allows a direct filing in Tax Court directly to a Tax Court judge to seek a determination of two questions which relate to Measure 47. First, whether bonds are in or out of the base in calculating the cut. Second, whether governments may seek a local option to impose property taxes outside of Measure 47's limits.

045 Scherzinger Discussion regarding how Measure 5 was implemented in 1990-91.

**OPENED PUBLIC HEARING ON HB 2050**

058 DiLorenzo            He is one of counsel in cases currently being litigated in Marion County challenging the constitutionality of Measure 47 and in support of HB 2050. Rep. Shetterly in floor debate made it clear that nothing contained within A-Engrossed HM 2050 was meant in any way to vest in any party standing which that party did not already have in the present litigation. One of claims being made by Bill Sizemore in the litigation is that certain parties do not have standing to even wage the action. Oregon law is fairly clear that in order to have standing, one must be aggrieved. Parties who state their taxes will be going down due to Measure 47 have not suffered the type of injury that would normally vest them with standing to make such a claim. Interesting issue coming up regarding political subdivisions. Do not know if amendments are necessary at this point.

098 Vice Chair Bryant Agreed with Mr. DiLorenzo that this bill is not intended to increase standing to parties that currently would not have standing.

115 Chair Baker Referred to Exhibit D - Letter dated 3/17/97 from Tim Nesbitt of Oregon Public Employees Union.

138 Roy Pulvers Feels language in HB 2050 is sufficient to address point being raised. One way or another, whether a case goes to Tax or Circuit Court, in Marion County there is challenge to validity being handled by one single statewide court.

195 Scherzinger Section 1 is a permanent section and states that actions must be filed in Marion County if it relates to Measure 47. 180 days is just for a direct appeal. Often when someone files a tax case, they will also throw in some constitutional argument about why that provision violates some other constitutional provision. Wanted Tax Court to be able to deal with this.

244 Pulvers The object was not to have 35 different Circuit Courts giving a decision, but to have a direct line to the Supreme Court from a single decision maker at the Circuit Court level. Questions and discussion.

264 Sen. Dukes Asked what happens to cases already filed? Pulvers answered his recollection that in Section 2 of the bill it says any party to an action described in Section 1 that is filed in Circuit Court before the effective date of HB 2050 or within 180 days thereafter would have a straight line to the Supreme Court. The only pending cases are in Marion County at this point.

CLOSED PUBLIC HEARING ON HB 2050

OPENED WORK SESSION ON HB 2050

MOVES HB 2050 TO THE SENATE FLOOR WITH DO PASS RECOMMENDATION.

287 Vice Chair Bryant ROLL CALL VOTE: MOTION PASSES: 6 - 0

SENATORS VOTING AYE: DUKES, DUNCAN, HARTUNG, LEONARD, BRYANT, BAKER.

Chair Baker will carry the bill on the Senate Floor.

CLOSED WORK SESSION ON HB 2050

303 Chair Baker Announced that this afternoon at 3:00 p.m. the Committee will have HJR 85 for consideration.

314 Scherzinger Exhibit E - Staff Measure Summary. Exhibit F - Revenue Impact Statement. Exhibit G - Fiscal Impact Statement. HJR 85 replaces existing constitutional tax limits (except for Measure 5) with new limits that integrate old limits with Measure 47 that passed in 1996. Provides tax relief to taxpayers to achieve same tax in simpler form. Basic difference is differential rates of growth in new construction across state. Other exception specific to Measure is it requires different distribution of cut than what Measure 47 would do. Also sets out new system of value limitations on property. Limits assessed value of 1997-98 to its 1995-96 market value less 10%, then limits its growth to 3% thereafter.

#### **TAPE 081, SIDE A**

070 Scherzinger Measure goes on to allow voters to approve new levies outside rate limits but not over Measure 5's rate limits. Double majority requirement on any levies outside the new rate limits or establishing a new rate limit. School districts are permitted local option levies under the Measure, but it would take legislative action to implement it. Questions and discussion interspersed.

167 Scherzinger 17% reduction will reduce local property tax revenue in 1997-99 by about \$804 million compared with what would have been collected under Measure 5. By contrast, the reduction under Measure 47 is about \$1 billion. Questions and discussion interspersed.

320 Scherzinger Exhibit H - HJR 85-A35. Main objective is to clarify in many places that the taxes imposed within or outside the rate limits of HJR 85 are subject to Measure 5 limits. Read lines 6 and 7 clarifying that new construction is really all the additions to value which come from improvements, partitioning, or rezoning...not just new construction.

365 Scherzinger Page 2 lines 9 - 18 substituting language in Bill with what is in amendment. This provision allows 17% reduction to be reduced to the extent that there are additions to value that exceed 4% of the total value on the tax role. The reason for this is to mimic Measure 47. Questions and discussion interspersed.

#### **TAPE 080, SIDE B**

035 Scherzinger Walked through technical corrections in HJR 85-A35 Amendments and where they go in the Bill. Exhibit I - HJR 85A - Property Tax Rewrite. Questions and discussion interspersed.

382 Scherzinger HB 3511 Exhibits J - Staff Measure Summary. Exhibit K - Revenue Impact Statement. Exhibit L - Fiscal Impact Statement. Walked through highlights of each. Questions and discussion interspersed.

#### **TAPE 081, SIDE B**

Will have amendments to discuss this afternoon for SJR 2, which will use HB 3511 as

010 Scherzinger vehicle.

026 Chair Baker Recessed meeting at 10:30 a.m. with announcement it will reconvene at 3:00 p.m. this afternoon. Meeting reconvened at 3:28 p.m.

#### OPENED PUBLIC HEARING ON HJR 85 (-37)

034 Scherzinger Exhibit M - HJR 85 - A37. In the resolution as written it ratifies any levies approved by a double majority at March election and the upcoming May election. It allows those levies to be imposed in 1997-98 at 100%, then rolls those levies into permanent rate calculation of the district.

062 Rep Cynthia Wooten Exhibit N - Eugene Register-Guard article. Opposes (-37) amendments which would effectively pre-empt the city of Eugene from replacing by virtue of a vote of the people the approximately \$10 million per year they will be losing as a result of Measure 47. It is not the intention of major or city council to try to subvert or circumvent essential provisions of Measure 47 but it is only to represent diversity of community and to give residents a simple opportunity to access local control of the democratic process to decide for themselves that which they would like to have maintained. Kinds of things being cut are same as you have heard previously. Do not be so arrogant as to disallow the people of Eugene the chance to choose for themselves that which they are willing to pay for. It is in best interest of all Oregon communities to reject amendment at this time.

124 Bob Cantine This may be intended by the sponsor to get at some perceived loophole that sponsor sees, but at the same time affecting counties like Crook, Jefferson, and Morrow Counties all of which have one-year operating levies or three-year serial levies coming up in May. Why should they be penalized because of a perceived gap? Those counties that should be treated the same as all others in terms of permanency of their levies will now get treated differently, and he thinks that is wrong.

137 Bill Sizemore In favor of (-37) Amendments.

#### **CLOSED PUBLIC HEARING ON HJR 85**

167 Scherzinger Exhibit P - HJR 85 (-A41). This is a reworking of the technical amendments from this morning's session. There are some changes reflecting wording changes to make them reflect the original intent of HJR 85 as passed by the House. Read and discussed each line of the (-41) Amendments. Questions and discussion interspersed.

#### **TAPE 082, SIDE A**

002 Scherzinger Continued reading and discussing each line of (-41) Amendments.

107 Sen. Duncan MOVES (-41) AMENDMENTS TO HJR 85 BE ADOPTED.  
HEARING NO OBJECTION, THE CHAIR SO ORDERED.

114 Scherzinger Exhibit O - HJR 85 (-40), Relating to a situation which exists, i.e. city of Carlton approved new tax base last November, but implementation of the base was delayed for one year. It would not go into effect in 1997-98, but instead would go into effect in 1998-99. These Amendments say that if a district on 11/5/96 approved a new base which would not go into effect until 7/01/98, then in the second year of the measure the rate limit would be recalculated to reflect this new base. Questions and discussion.

149 Chair Baker MOVES (-40) AMENDMENTS TO HJR 85 BE ADOPTED.  
HEARING NO OBJECTION, THE CHAIR SO ORDERED.

157 Scherzinger Exhibit Q - HJR 85 (-42). Read and discussed this Amendment. Measure ratifies certain kinds of levies which were approved in last election in March 1997. Two kinds: Those that meet double majority are ratified at 100%. Those that did not meet double majority are ratified subject to cut if they were a serial levy that continued a previously levied serial levy that was expiring and the rate or the amount of the levy did not exceed the rate of the prior levy.

190 Chair Baker MOVES (-42) AMENDMENTS TO HJR 85 BE ADOPTED.  
HEARING NO OBJECTION, THE CHAIR SO ORDERED.

200 Bill Sizemore Was attempting to allow those levies which were approved in the March election and did not have 50% voter turnout but were only renewing an existing levy to come through and be recognized. Since the time the Amendment was requested, it has been suggested that they might be better off without this Amendment. Prepared to withdraw this Amendment.

208 B. J. Smith Would support withdrawal of the (-42) Amendments.

212 Chair Baker MOVES (-42) AMENDMENTS TO HJR 85 BE WITHDRAWN.  
HEARING NO OBJECTIONS, THE CHAIR SO ORDERED.

214 Chair Baker Announced the Committee was in recess until 4:45 p.m.

218 Vice Chair Bryant Reconvened meeting at 7:10 p.m.

225 Vice Chair Bryant Discussed (-37) Amendments in regard to testimony from Rep. Wooten and Bill Sizemore earlier in the day.

For the May levy election for those proposals that get approved by a double majority,

245 Scherzinger under current provision in HJR 85 if something is approved under that circumstance it is ratified at 100% and rolls into permanent rate of the district. These Amendments change that so it is ratified at 100% but is not rolled into the permanent rate of the district. It is imposed as a serial levy for whatever number of years that it was proposed for. Questions and discussion.

277 Sizemore Believes (-37) Amendments are allowing the levies that were passed in March to be rolled in as permanent rates. That was not what was asked for in the (-37). They asked that they not allow any levy after December 5. Stops frenzy of last minute tax base increases on ballot. Sizemore's group opposed to anyone after Dec. 5 having a roll-over of newly approved levies as a permanent levy; and the March and May elections should be treated the same. Questions and discussion.

333 Carole Samuels Extremely concerned by (-37) Amendments discriminating against jurisdictions that expected to be treated similarly to other jurisdictions which have had serial levies approved. On the record as supporting the concept of permanent tax bases, and so oppose (-37). Questions and discussion.

368 Vice Chair Bryant Asked for further discussion on (-37) Amendments.

MOVES (-37) AMENDMENTS TO HJR 85 BE ADOPTED.

369 Sen. Hartung SEN. DUKES AND SEN LEONARD OBJECT.

SEN. ADAMS VOTED IN PLACE OF SEN. BAKER. MOTION CARRIES.

437 Sen. Leonard Exhibit S - HJR 85 (-32). This Amendment would place the fire and police pension levy outside of the Measure 5 limits. This is necessary because if the fire and police levy, used exclusively to pay retirements and disabilities for Portland firefighters and police officers, is inside the Measure 5 limit, and there were to be compression in that levy, it would reduce the amount of monies retirees receive or a firefighter or police officer on disability would receive. Firefighters and police officers in City of Portland do not receive social security benefits or Medicare. To reduce that funding would be unconstitutional.

**TAPE 083, SIDE A**

038 Leonard The adoption of these Amendments would allow the fire and police levy to be used to pay those retirements and disability amounts required and remove any constitutional attack this measure would be under if it were to be adopted without these Amendments. Questions and discussion.

MOVES (-37) AMENDMENTS TO HJR 85 BE ADOPTED.

066 Sen. Leonard HEARING NO OBJECTION, THE VICE CHAIR SO ORDERED.

Sen. Exhibit T- HJR 85 (-A38). Issued a memo earlier in the day to Committee members

067 Leonard regarding these Amendments. Discussed Amendments and why it is necessary.

105 Pete Castine The technical problem this Amendment is intended to correct is that the fire and police levy is a rate-based levy with a cap on the rate. The way HJR 85 is written means levies will be extended against property rolls based on the reduced assessed value of properties. That means in order to raise the amount of revenue required to meet the demands of the fire and police fund the rate must be increased because it is applied against a reduced assessment. Allows levy to raise the amount of money the voters expected to raise. Questions and discussion.

162 Sen. Leonard Discussed this Amendment fully with Chair Baker this morning. Chair Baker and Legislative Counsel understood the problem and the issue. Reiterated that (-38) needs to be adopted. Further questions and discussion.

184 John DiLorenzo Concerned with language in (-38) Amendments is it appears to be open checkbook. Wording which states obligations "may be adjusted" to basically pay off the bonds. There is no limit; this is excluded from Measure 47's limits and excludes pension plan from Measure 5. Charter could be amended.

199 Sen. Leonard Suggested Mr. DiLorenzo read the entire sentence and thereby get the full meaning of what the Amendment is trying to do. The rest of the sentence explains that there is too a limit; it is what they would have been authorized to raise if applied to property value at real market value.

223 Sen. Dukes Suggested Scherzinger explain what the Amendment says and means.

231 DiLorenzo This is a mathematical certainty; once you define several of the variables the rate has to rise to meet them. Question is: Could variables change over time such that the rate would be adjusted more than once?

239 Castine There is a rate limit on the fire and police levy expressed in the charter at \$2.80 per \$1,000. The limitation is carried through in lines 6 and 7 of Measure. It says limit may be adjusted so that the maximum allowable rate is capable of raising revenue that the levy would have been authorized to raise if applied to property valued at real market value. The cap is still there; it is just mathematically adjusted upward to reflect and counteract the reduction in assessed values imposed by HJR 85. Questions and discussion.

296 Scherzinger Sees two issues: One, it could be clearer as to what this is overriding; and two, because there are Amendments already adopted, this section should refer back to those Amendments and say they are the obligations of this particular plan described elsewhere that this would apply to.

Agrees the second issue could be handled by a cross-reference back to the other locations where description has been included.. As for first issue, agrees it would be a



- 324 Castine useful clarification to say "notwithstanding local charters" beginning on line 3 of the Amendments.
- 362 Sen. Leonard MOVES (-38) AMENDMENTS TO HJR 85 BE ADOPTED.  
HEARING NO OBJECTION, THE VICE CHAIR SO ORDERED.
- 375 Vice Chair Bryant Exhibit V - HJR 85(- A39). Regarding ad valorem taxes on forest land.
- 391 Lincoln Cannon Intent of this language is to put forest land on the tax roles at 100% ad valorem tax. Some special provisions in 1997-99 biennium to hold this essentially revenue neutral for that biennium. Read and discussed lines 5-8. Read and discussed lines 9-12. Read and discussed lines 13-21.

**TAPE 082, SIDE B**

- 023 Cannon Read and discussed lines 22-24. Read and discussed lines 1-9 page 2.
- 042 Scherzinger This provision applies to all forest land, including market value forest land, not just specially assessed forest land. Taxing at 200% of statutory values, extra 100% of value does not enter into any calculations under regular property tax system. Makes a clear exception to provisions in HJR value cannot exceed market for two years. Makes clear exception to provisions in HJR 85 and Measure 5 that value cannot exceed market. Rather than have permanent provision of 3%, have a permanent provision that either links to or mimics the one that applies to specially assessed lands.
- 085 Cannon All the above named changes are consistent with intent of amendment.
- 089 Vice Chair Bryant Vice Chair intends to conceptually adopt the changes just described. It will have to go back to Legislative Counsel to be placed into Amendments in correct form and style.
- 095 Vice Chair Bryant MOVES CONCEPTUAL AMENDMENTS TO HJR 85 (-A39).
- 103 Sen. Dukes Asked Vice Chair Bryant what is legal under Committee Rules regarding conceptual amendments. Another committee which attempted to move conceptual amendments was stopped by Legislative Counsel.
- 110 Vice Chair Bryant Was in the committee which attempted to move conceptual amendments. Questions and discussion on changing rules and the amount of time needed to post notice.
- 132 Vice Chair Bryant MOVES CONCEPTUAL AMENDMENTS TO HJR 85 (-A39) BE ADOPTED.

HEARING NO OBJECTION, THE VICE CHAIR SO ORDERED.

137 Sen. Dukes Questions regarding HJR 85 (-A39) wording lines 17, 18, and 19. Questions and discussion.

163 Cannon Clarified what the provision is in the way the timber tax works now. The offset, which is how the privilege tax is handled, is given back against property tax rates on the local government side. On the school side because of rate compression it is money that goes to the schools. You can offset the rate against pre-Measure 5 rate. 85% of the privilege tax money goes to schools. Questions and discussion.

220 Dick Yates Designed to essentially keep the tax paid by the forest industry relatively constant and hold School Fund harmless. The School Fund indirectly is losing the severance tax revenue. That loss is being offset by increased property tax revenue. Those revenues are siphoned off the top and then go back in a manner determined by the legislature to schools. That replaces what they do not get under severance taxes. Total severance taxes for the biennium are approximately \$95 million (\$38.8 from west each year and \$3.5 from east each year.) At 200% increase in value, generates \$85 million. Total increase paid by timber industry is \$13.5 million for the biennium. Questions and discussion interspersed.

282 Scherzinger It is not clear who actually get those funds. These Amendments establish limits. Intent is to make this revenue neutral in first two years.

294 Cannon This Amendment is worded differently than their understanding of what it would be. The intent was that 200% was more than enough to make schools whole. Not sure if language in this Amendment accomplishes that.

308 Yates In the out years the surplus goes away. Drop of about \$18.9 million per year in the next two years. Questions and discussion interspersed.

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**TAPE 083, SIDE B**

002 Cannon Because offset is eliminated, it would tend to increase the tax rate. The addition of the additional assessed value back into the tax rate calculation would tend to decrease tax rate. Local governments should come out about there they would under Measure 47. Questions and discussion.

048 Scherzinger Two pieces of information needed to digest all the above. Under the current system, 20% of the values are on the roll. When the value is raised to 100%, it shifts the burden onto the timber industry for local government tax. On the other hand, by not paying the severance tax, some of that money currently goes to local government, so that money is gone. Because of the difference in the way local governments work versus the way schools work under Measure 5, the effect is different on local

governments than it is on schools. Further discussion.

MOVES (-39) AMENDMENTS AS CONCEPTUALLY AMENDED.

- 123 Vice Chair  
Bryant
- ROLL CALL VOTE: MOTION PASSES: 4 - 0
- SENATORS VOTING AYE: DUNCAN, HARTUNG, BRYANT, ADAMS.
- SENATORS VOTING NO: DUKES, LEONARD
- SENATOR ABSENT: BAKER
- 134 Vice Chair  
Bryant
- VICE CHAIR MOVES TO SUSPEND RULES BECAUSE ALTHOUGH NOT NEEDED TO ADOPT CONCEPTUAL AMENDMENTS, RULES MUST BE SUSPENDED TO PASS TO FLOOR WITH DO PASS RECOMMENDATION.
- 139 Scherzinger
- Verified this under Senate Committee Rules No. 14, which states that the Committee shall not report a measure recommending that it do pass with amendments unless the LC drafted amendments have been approved by a majority of the members of the Committee.
- 148 Vice Chair  
Bryant
- Asked if Sen. Dukes and Sen. Leonard wanted to be noted as a "No" on suspension of the rules, to which they agreed.
- MOVES HJR 85 AS AMENDED BY VARIOUS AMENDMENTS TO THE SENATE FLOOR WITH DO PASS RECOMMENDATION.
- 153 Vice Chair  
Bryant
- ROLL CALL VOTE: MOTION PASSES: 4 - 2
- SENATORS VOTING AYE: DUNCAN, HARTUNG, BRYANT, ADAMS.
- SENATORS VOTING NO: DUKES, LEONARD
- SENATOR ABSENT: BAKER
- SEN. DUKES AND SEN. LEONARD FILED NOTICE OF POSSIBLE MINORITY REPORT.

CLOSED WORK SESSION ON HJR 85

OPENED WORK SESSION ON HB 3511 (A-5)

002 Scherzinger Exhibit W - HB 3511 (-A5). Line 12 Page 3. Clarifies voters pamphlet that the prohibition on shifting revenues does not apply if approved by voters. This corrects an erroneous statement in the House passed HB 3511 about what is in HJR 85. Questions and discussions.

MOVES (A-5) AMENDMENTS TO HB 3511 BE ADOPTED.

HEARING NO OBJECTION, THE VICE CHAIR SO ORDERED.

022 Vice Chair  
Bryant MOVES HB 3511 AS AMENDED BY THE (A-5) AMENDMENTS TO THE SENATE FLOOR WITH DO PASS RECOMMENDATION.

SEN. DUKES OBJECTS.

MOTION CARRIES.

038 Vice Chair  
Bryant Adjourned meeting at 9:03 p.m.

Carol Phillips

Committee Assistant

Kim James

Office Manager

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Exhibit Summary:

- A. HB 2050, Scherzinger, Staff Measure Summary, 1 page
- B. HB 2050, Scherzinger, Revenue Impact Statement, 1 page
- C. HB 2050, Scherzinger, Fiscal Impact Statement, 1 page
- D. HB 2050, Nesbitt, OPEU letter dated 3/17/97, 3 pages
- E. HJR 85, Scherzinger, Staff Measure Summary, 1 page
- F. HJR 85, Scherzinger, Revenue Impact Statement, 2 pages
- G. HJR 85, Scherzinger, Fiscal Impact Statement, 1 page
- H. HJR 85, Scherzinger, -A35 Amendments, (DJ/ps) 3/18/97, 3 pages
- I. HJR 85, Scherzinger, Property Tax Rewrite Summary, 1 page
- J. HB 3511, Scherzinger, Staff Measure Summary, 1 page
- K. HB 3511, Scherzinger, Revenue Impact Statement, 1 page
- L. HB 3511, Scherzinger, Fiscal Impact Statement, 1 page
- M. HJR 85, Scherzinger, -A37 Amendments, (DJ/ps) 3/18/97, 1 page
- N. HJR 85, Wooten, Eugene Register-Guard newspaper article 3/16/97, 1 page
- O. HJR 85, Scherzinger, -A40 Amendments, (DJ/ps) 3/18/97, 1 page
- P. HJR 85, Scherzinger, -A41 Amendments, (DJ/ps) 3/18/97, 4 pages
- Q. HJR 85, Scherzinger, -A42 Amendments, (DJ/ps) 3/18/97, 1 page
- R. HJR 85, Schellenberg, Letter dated 3/18/97, 1 page
- S. HJR 85, Scherzinger, -A32 Amendments, (DJ/ps) 3/18/97, 2 pages
- T. HJR 85, Scherzinger, -A38 Amendments, (DJ/ps) 3/18/97, 1 page
- U. HJR 85, Scherzinger, -A37 Amendments, (DJ/ps) 3/18/97, 1 page

V. HJR 85, Scherzinger, -A39 Amendments, (DJ/ps) 3/18/97, 2 pages

W. HB 3511, Scherzinger, -A5 Amendments, (TR/ps) 3/18/97, 5 pages

X. HB 3511, Scherzinger, Budget Report and Measure Summary, 1page