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TASK FORCE ON HB 2143

July 2, 1997 Hearing Room 343

Tapes 1 - 4

MEMBERS PRESENT:

Sen. John Lim Chair

Sen. Joan Dukes

Sen. Veral Tarno

MEMBER EXCUSED:

STAFF PRESENT:

Jim Stembridge Administrator

Nora Carlson, Administrative Support

MEASURE/ISSUES HEARD:

HB 2143 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 1, A | | |
| 003 | Chair Lim | Calls meeting to order at 9:15 a.m. Opens public hearing on HB 2143. |
| HB 2143 PUBLIC HEARING | | |
| 018 | Jim Stembridge | Administrator, explains that an informal work group was formed to address concerns of the Senate which resulted in the proposed (-B18) amendment [EXHIBIT A]. |
| 037 | Chair Lim | Asks the administrator to explain the purpose of the bill. |
| 039 | Stembridge | Reviews provisions of the bill which increases the flexibility of enterprise zones. |
| 064 | Jim Whitty | Manager, Oregon Economic Development Department, submits written testimony and provides testimony in support of HB 2143 [EXHIBIT B]. |
| 091 | Chair Lim | Asks about the tax credit for wages and benefits referred to in chart handout. |
| 098 | Whitty | Responds that the department sought reduction in order to make the offer more attractive. |
| 101 | Sen. Dukes | Comments on crafting a tax incentive in an attempt to encourage a business to locate in Oregon; asks what kind of guarantee do we have that the company will locate in Oregon. |
| 109 | John Powell | Representing Nucor Corporation, responds that the bill has a sunset clause for policy review purposes and further responds that there is no way to guarantee the location of the plant due to infrastructure issues. |
| 141 | Sen. Dukes | Asks if Nucor has had similar discussion with legislators in Washington and California states. |
| 142 | Powell | Responds that there has been discussion in Washington. |
| 151 | Sen. Dukes | Asks if the Washington legislators ever passed legislation on tax breaks. |
| 160 | Powell | Responds that he does not know. |
| 166 | Chair Lim | Asks about the logic in percentages outlined in chart handout. |
| 168 | Powell | Explains that Nucor, in projecting their production levels at 62.5 percent, projected their tax liability at \$1 million, payable to the State of Oregon. |
| 173 | Chair Lim | Comments on giving away 62.5 %tax break; asks what are the benefits to Oregon. |
| | | Describes the benefits to Oregon, issues discussed: * answer to double-digit unemployment areas |

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| 182 | Powell | * family wage jobs * community investments |
| 210 | Sen. Dukes | Asks if ancillary companies would be located in Longview, Washington. |
| 218 | Powell | Responds that companies would prefer to be located close to their supplier for shipping cost and infrastructure needs. |
| 229 | Sen. Dukes | Comments on the rail line and other benefits that Washington provides and observes that there is no way of knowing whether businesses will prefer to locate in Washington. |
| 232 | Powell | Responds that he does not know how Nucor will select their sites. |
| 237 | Chair Lim | Asks about tax breaks for properties on site. |
| 243 | Powell | Responds that property tax break will also apply to improvements to the property. |
| 260 | Chair Lim | Asks if this would be in addition to the 62.5 percent projected. |
| 263 | Powell | Concurs and explains that there was agreement to pay a \$5 school tax fee, which is the reason they shifted from property tax payments to income tax payments. |
| 262 | Chair Lim | Comments that if the legislation were to pass, Nucor would still have to negotiate with county and city governments. |
| 266 | Powell | Concurs and explains that it would require a resolution by the governing body, and that the sponsor of the enterprise zone can add restrictions in additions to those required by statute. |
| 272 | Sen. Tarno | Asks whether the county could negotiate for a lower rate for a company who wanted to relocate to Oregon. |
| 284 | Powell | Explains that two discussions would have to be held, one with the governing body for resolution approval, and the other with the sponsor of the zone which could include additional criteria such as infrastructure improvements. |
| 307 | Sen. Dukes | Asks about appeal to tax courts if local jurisdiction refuses. |
| 310 | Whitty | Explains that the provision allows appeal only if the assessor refuses to grant the application and that the language was removed from the bill. |
| 346 | Sen. Dukes | Asks about additional dis-incentives such as penalty for interest on income tax. |
| 350 | Whitty | Responds that existing law allows for interest to be paid on late payments of income tax. |
| | | Asks Mr. Whitty if he was aware of any other provisions in |

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| 358 | Sen. Dukes | income tax law where local governments are authorized to decide on income tax. |
| 367 | Whitty | Explains that the legislature will have to make the decision in partnership with local governments. |
| 389 | Sen. Dukes | Clarifies that the legislature will authorize the local governments to make decisions. |
| 392 | Chair Lim | Comments on the increase in population and schools; asks about school support towards enrollment increases. |
| 405 | Powell | Responds that companies would pay \$5 towards the school formula for property taxes, which will be put into a general fund account. |
| TAPE 2 A | | |
| 011 | Sen. Dukes | Asks whether local government could be allowed to negotiate over the school issue and make whatever dollars are negotiated exempt from local revenues. |
| 013 | Powell | Responds that it could be done. |
| 024 | Chair Lim | Asks about the total value of taxable real estate. |
| 030 | Powell | Responds that it would be determined by each business need. |
| 040 | Chair Lim | Asks about amendment language "use of tax credits for other Oregon facilities..." |
| 044 | Whitty | Responds that there was concern that income tax credits developed could be used by an existing Oregon-based company. |
| 047 | Chair Lim | Questions concerning restriction language. |
| 073 | Chair Lim | Asks about bill language concerning the ability to transfer tax credits. |
| 081 | Whitty | Responds that this was in response to a concern that limited partnerships could pass around tax credits. |
| 086 | Chair Lim | Asks if the timing of elections for a tax credit period was reduced to three years. |
| 088 | Whitty | Explains that the company originally had been allowed five years and that language has been amended in the -B18 amendments. |
| 096 | Chair Lim | Asks why a three years tax credit period was given. |
| 105 | Powell | Responds that the majority of heavy industries need a period of time for construction and testing. |
| 111 | Chair Lim | Asks about applicability to local tax credits. |
| 115 | Whitty | Explains there was concern in using tax credits from a enterprise zone facility in other locations. |
| 120 | Chair Lim | Asks what happens if the company does not locate in Oregon. |
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| 125 | Powell | Responds that the sunset clause will allow a review of the overall policy. |
| 134 | Chair Lim | Refers to Section 43 of the bill and asks about repeal of tax exemption. |
| 145 | Powell | Responds that if a taxpayer qualified under the provisions of the act, they will be allowed to continue that package until it expired. |
| 156 | Whitty | Responds that the Oregon Economic Development Department (OEDD) will follow proposed legislation closely to pick up any errors that may be discovered and will propose a technical corrections bill next session. |
| 172 | Chair Lim | Asks about the penalty for failure to meet requirements. |
| 174 | Whitty | Explains that requirements were needed so that local jurisdictions could reclaim property taxes that were offset by tax credits. |
| 205 | Chair Lim | Asks about tax credits applicability to sale tax. |
| 209 | Powell | Responds that the effort is to insure tax liability policy for industries in Oregon. |
| 211 | Sen. Dukes | Asks whether a person would be able to argue for exemption if there was a shift in tax policy. |
| 216 | Powell | Responds that the exemption would be very difficult to get. |
| 234 | Sen. Dukes | Asks if there are any statutes that provides exemption from tax. |
| 237 | Powell | Responds that he cannot site a statute where tax credits were given. |
| 252 | Sen. Dukes | Expresses concern with Nucor being exempt from future taxation. |
| 263 | Whitty | Responds that the bill language sends a message to the company that the Oregon legislature has no intention in not allowing tax credits to apply. |
| 285 | Sen. Dukes | Asks if the Strategic Investments Program (SIP) has similar language and if their firms were exempted from future taxes. |
| 287 | Bill Scott | Director, Oregon Economic Development Department, responds that the firms are not exempted. |
| 312 | Chair Lim | Asks about the maintenance requirements for 100 employees. |
| 315 | Powell | Responds that there is a one-time requirement for 100 employees and that wages would have to remain at the same level throughout the whole qualifying period. |
| 333 | Sen. Dukes | Asks if there were reporting requirements that would verify the number of employees a company employed. |
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| 359 | Whitty | Responds that he does not know of any, but that this is something their agency will want to monitor. |
| 377 | Chair Lim | Asks if there has been discussion with the Department of Environmental Quality (DEQ) concerning environmental issues. |
| 381 | Powell | Responds that Nucor has been in ongoing dialogue with DEQ; know what their requirements are and plan on meeting those requirements. |
| 400 | Chair Lim | Suggests a 10 percent tax increase every two years instead of the \$1 million cap to reflect inflation costs. |
| TAPE 1, B | | |
| 010 | Powell | Responds that at the proposed level, Nucor would continue to be one of the largest tax payers at the \$1 million level. |
| 015 | Sen. Tarno | Comments on other companies that come into Oregon that share in inflation costs and that it should not be a problem for Nucor. |
| 024 | Powell | Respond that Nucor will be willing to have discussion on the issue. |
| 034 | Sen. Dukes | Asks why they would create a new program instead of using the SIP. |
| 038 | Powell | Responds that the SIP does not work for rural Oregon and describes some of the obstacles companies face when they attempt to relocate in Oregon. |
| 055 | Sen. Dukes | Comments on whether there could be an enhanced version of the SIP. |
| 078 | Scott | Responds that the SIP was designed for semiconductor companies that were planning additional investments. |
| 123 | Sen. Dukes | Asks if Coos County will be willing to negotiate for more jobs and wages. |
| 134 | Scott | Describes discussions held with county governments. |
| 142 | Sen. Dukes | Comments that the incentive will not be enough for Nucor. |
| 147 | Chair Lim | Asks about Nucor's commitment to community involvement. |
| 153 | Powell | Responds that he cannot speak on Nucor's community involvement practices. |
| 183 | Chair Lim | Asks about other companies that may want to relocate to Oregon. |
| 189 | Whitty | Responds that Oregon-based companies that are anticipating expansion may take a new look at relocating to Oregon. |
| 195 | Chair Lim | Asks about internal shifting. |
| 200 | Whitty | Responds that when companies look to relocate they look at multiple states. |
| 203 | Chair Lim | Expresses concern on Oregon companies moving to different areas within Oregon because of a tax break. |
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| 211 | Whitty | Responds that it would be difficult to assess but believes that most companies would prefer to have growth occur in Oregon. |
| 231 | Chair Lim | Asks about possible loop holes; whether a strategic investment company would relocate in Oregon because of the tax incentives. |
| 240 | Scott | Responds that most high-tech companies in Oregon have stringent requirements relating to airport access and labor force. |
| 254 | Chair Lim | Asks if it would be appropriate to put the final sale under the Governor's approval. |
| 262 | Scott | Responds that he does not foresee a problem with the sale, but does not think that Governor's approval should be required. |
| 289 | Chair Lim | Comments that it could be a problem and asks Mr. Powell to respond. |
| 295 | Powell | Responds that there are very few companies in Oregon that pay above a million dollars in corporate taxes and that companies would have to invest a minimum of \$50 million; the number of people that would qualify under this program would be extremely small. |
| 330 | Carol Samuels | Representing League of Oregon Cities, provides support towards the effort that the bill represents, but cites areas of concern in Section 40 which deals with tax credits other than the property tax credits. |
| 405 | Samuels | Continues with testimony relating to tax limitations on the first million dollars. |
| TAPE 2, B | | |
| 005 | Samuels | Suggests that changing language in Section 3, line 9 from "a taxing unit" to "the State of Oregon" would address their concerns. |
| 023 | Sen. Tarno | Comments on the need to get the bill done in a timely manner. |
| 029 | Samuels | Shares concern over the timeline but suggests that a provision should be drafted that would apply to overall tax exemptions. |
| 035 | Sen. Dukes | Comments that negotiations have been ongoing for over five years. |
| 051 | Chair Lim | Asks if the bill gives authority for local governments to negotiate. |
| 054 | Samuels | Responds that the bill does not and advocates adding flexibility language in the bill. |
| 057 | Chair Lim | Invites Mr. Powell to respond to Ms. Samuels concerns. |
| 059 | Powell | Comments that no one testified on the bill prior to today; they have attempted to incorporate input received relating to the bill. |
| 066 | Sen. Dukes | Comments that she testified on the bill and that she was unaware that Nucor was a player in the proposed legislation. |

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| 072 | Powell | Responds that amendment drafting deals with the structure of the legislation. |
| 082 | Chair Lim | Comments that he was unaware of the -B18 amendments until recently. |
| 085 | Powell | Comments that proposed legislation will give local government negotiating authority. |
| 095 | Chair Lim | Asks to identify negotiating language in the bill. |
| 101 | Stembridge | Identifies page 23, line 7 and 8 of the -B18 amendments. |
| 104 | Chair Lim | Comments to Ms. Samuels that there is negotiating language in the bill. |
| 109 | Samuels | Responds that when she first read the bill it was not clear that the sponsor and local governments were the same. |
| 115 | Sen. Dukes | Ask about language that allows for specific negotiating. |
| 123 | Tom Linhares | Representing County Assessors for Columbia County, responds that there is language that allows for a written agreements to be made between the company and the governing bodies. |
| 140 | Gil Riddell | League of Oregon Counties, expresses concern on impact studies that will be required and further comments that rural counties will not be able to incur the costs. |
| 152 | Linhares | Submits a page copied from the "Extended Abatement Enterprise Zone" booklet and suggests that some of the language could be included in the written agreement [EXHIBIT C]. |
| 173 | Chair Lim | Suggests that due to timelines, counties and cities should negotiate on language that could be included in written agreements. |
| 183 | Chair Lim | Asks Mr. Powell if he would support further amendments. |
| 188 | Powell | Comments that they would not be comfortable with drafting further amendments to do what the law currently allows. |
| 189 | Sen. Dukes | Asks Mr. Powell about his concern with putting language into statute. |
| 194 | Powell | Responds that the timelines that need to be met are critical. |
| 196 | Sen. Dukes | Asks Mr. Powell if he has substantive reasons for not including language into statute. |
| 207 | Powell | Responds that language calling for a certain percentage is actually limiting language. |
| 212 | Chair Lim | Asks Mr. Powell if he supports adding "the State of Oregon" to amendment language on page 25. |
| 214 | Powell | Responds that language was removed from the bill so that fees relating to services rendered to local communities would be subject to Nucor. |
| 224 | Sen. Dukes | Questions on special taxes that can be placed on steel mills. |
| | | Comments that the bill essentially allows a company to get twice |

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| 250 | Samuels | the tax exemption. |
| 268 | Linhares | Comments on the benefits in the proposed legislation for rural enterprise zones and companies. |
| 320 | Tim Nesbitt | Representing Oregon Public Employees Union (OPEU) provides testimony on concerns relating to HB 2143, issues discussed: * contractual obligations * allowing abatement of taxes collected at the state level when decisions are made at the local level * allowing tax credits to be used against sales and use taxes |
| 377 | Chair Lim | Comments that currently local governments can decide whether they want to enter into an agreement. |
| 389 | Nesbitt | Agrees that they could negotiate over additional requirements but is not certain whether they could negotiate over term limits and tax abatements. |
| 408 | Sen. Dukes | Comments on using income tax credits for other items such as gas tax and weight mile tax. |
| TAPE 3, A | | |
| 010 | Powell | Explains that it was not their intent to create a credit that could be applied towards other taxes and that the language will need to be defined. |
| 025 | Sen. Dukes | Asks if language could be drafted that will specifically not allow a local jurisdiction to create a tax or fee aimed at a company that was under the program. |
| 032 | Powell | Responds that language will be difficult to draft. |
| 042 | Sen. Dukes | Comments on the term "use taxes" which could put into statute the ability to get out of all kinds of things. |
| 043 | Nesbitt | Comments on requirements to maintain the employment level for the duration of the tax exemption period. |
| 053 | Chair Lim | Close public hearing on HB 2143; opens work session on HB 2143. |
| <u>HB 2143</u> <u>WORK</u> <u>SESSION</u> | | |
| 089 | Chair Lim | Refers to the -B18 proposed amendments and asks about wage level requirements. |
| 099 | Stembridge | Explains that language on wage level requirements are on page 1, lines 1 through 6. |
| 102 | Sen. Dukes | Asks if staff from the Department of Revenue could clarify wage language. |
| | | Department of Revenue, refers to page 24 of the bill and |

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| 108 | Susan Browning | explains that language allows taxpayer to be able to claim, as a credit, 62.5 percent of their payroll amount, benefits and employee costs. |
| 141 | Sen. Dukes | Asks if employee cost would include a child care facility located on the premises. |
| 150 | Browning | Responds that it could be if cost is tied to employee benefits. |
| 168 | Sen. Dukes | Asks if state income taxes could be used to offset local taxes. |
| 172 | Browning | Responds that language does not include a provision to offset other taxes. |
| 175 | Sen. Dukes | Asks if other taxes could be used for gas tax or weight mile tax. |
| 178 | Browning | Responds that there were some concerns because language does not specify other taxes and that they had proposed limiting it to corporate excise tax and corporate income tax. |
| 187 | Sen. Dukes | Asks Ms. Browning if she could provide the committee with copies of language she had proposed. |
| 196 | Browning | Responds that she had suggested deleting language after "corporate income taxes" on page 25, line 8 of the bill. |
| 198 | Sen. Dukes | Asks for clarification that if proposed language is removed then income tax credit could only be usable on income tax and corporate excise tax. |
| 205 | Browning | Confirms. |
| 210 | Chair Lim | Calls meeting to recess 11: 17 a.m. |
| 212 | Chair Lim | Reconvenes work session at 1:23 p.m. |
| 213 | Scott | Submits hand-engrossed amendments to HB 2143 [EXHIBIT D]. |
| 266 | Scott | Continues with discussion on waiver of future taxes amendment language. |
| 303 | Sen. Dukes | Comments that Nucor's request for exemption future taxes was because of their fear that local government would propose a tax specifically aimed at their company. |
| 320 | Sen. Dukes | Proposes to include language that would prohibit local governments from targeting new business, but still allow fees that are charged to other local businesses. |
| 334 | Scott | Comments that Option A of the hand-engrossed amendments would deal with the forget-waiver of future taxes. Further comments on Option B, which clarifies that vehicle or weight mile tax will not be used. |
| 343 | Sen. Dukes | Asks what other taxes would be available under the term "use" taxes. |
| 345 | Scott | Responds that reason that the statute uses "use sale tax and use tax" language is an alternative to keep people from evading the sales tax. |
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| 359 | Chair Lim | Asks if Oregon has a gross receipt business tax. |
| 367 | Scott | Responds that Oregon does not. |
| 372 | Chair Lim | Asks if Oregon has a "use" tax. |
| 375 | Scott | Identifies only specialized taxes such as gas tax and weight mile tax. |
| 371 | Scott | Continues with discussion on amendment language Option C, which addresses the issue of local fees. |
| 414 | Scott | Continues with discussion on hand-engrossed amendments, issues discussed: * 100-employee maintenance requirements * clarifying local governments authority |
| TAPE 4, A | | |
| 011 | Chair | Asks Mr. Scott which option would he support. |
| 012 | Scott | Identifies Option B. |
| 023 | Chair Lim | Asks for clarification on Option C. |
| 025 | Scott | Responds that Option C would clarify that credit applies only to state taxes and will not be a credit against local taxes. |
| 044 | Samuels | Provides support of Option C of the hand-engrossed amendments. |
| 055 | Sen. Dukes | Asks Ms. Samuels why she does not support Option A. |
| 057 | Samuels | Responds that Option A would be acceptable but that language in Option C is clearer. |
| 062 | Bob Cantine | Association of Oregon Counties, suggests that service fees be moved outside of negotiations. |
| 076 | Powell | Clarifies language in the -B18 amendments and provides support of Option B of the hand-engrossed amendments, and suggests further amendment to Option B to read "taxing unit <i>relating to</i> the operation of the subject facility.." |
| 112 | Sen. Dukes | Refers to page 24, line 45 of the bill concerning the 6.25 percent tax credit and suggests that language should include other costs like employee child care |
| 126 | Powell | Responds that agreement was that child care would be a part of employee benefit costs and that the language was not clearly outlined in the bill. |
| 137 | Sen. Dukes | Asks whether child care will be covered under employee benefit costs. |
| 146 | Powell | Responds that it will be a matter of federal or state law in terms of definition. |

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| 148 | Sen. Dukes | Asks if a company designates something as an employee benefit whether it is covered under employee benefit costs. |
| 150 | Browning | Confirms. |
| 153 | Chair Lim | Asks for the definition of word "force majeure." |
| 155 | Scott | Defines it as a standard business contract term which refers to a natural disaster. |
| 179 | Stembridge | Reviews provisions of the hand-engrossed amendments and the -B18 proposed amendments. |
| 216 | Sen. Lim | MOTION: Moves to ADOPT HB 2143-18 amendments dated 7/2/97 and that the measure be FURTHER AMENDED on page 1, line 20, after "unit" by changing language to read "taxing unit relating to the operation of the subject facility". |
| 218 | Chair Lim | Hearing no objection, declares the motion CARRIED. |
| 225 | Chair Lim | Asks for member support on the hand-engrossed amendments. |
| 230 | Sen. Tarno | Provides support for Option B. |
| 232 | Sen. Dukes | Provides support for Option A. |
| 230 | Chair Lim | Expresses concern on Option A and whether Nucor would be able to locate to subject facility. |
| 245 | Sen. Dukes | Clarifies that Nucor has been trying for four years to locate a facility on the West coast. |
| 255 | Chair Lim | Asks Sen. Tarno to explain his support for Option B. |
| 251 | Sen. Tarno | Explains that he supports Option B because language is as close to what Nucor originally proposed and that his county supports the facility. |
| 265 | Chair Lim | Proposes support for Option C because it provides for local option. |
| 272 | Sen. Dukes | Comments that Option A has local option but restricts income tax credits. |
| 275 | Chair Lim | Comments on corporate income taxes. |
| 282 | Sen. Dukes | Comments that all local governments have the legal authority to enact a sales tax. |
| 300 | Sen. Dukes | Comments that if income tax credits only applies to corporate income taxes, then it does not apply to local options. |
| 310 | Chair Lim | Reiterates his support for Option C. |
| 312 | Sen. Dukes | Refers to language on page 24 of the hand-engrossed amendments which reads "...and all other employee costs..." and suggests that language be deleted. |
| 330 | Stembridge | Clarifies language deletion on line 45, page 24 of the hand-engrossed amendments. Also clarifies that Option C was further amended by deleting text after the words "State of Oregon" and inserting "relating to the subject facility." |

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| 399 | Chair Lim | Asks the administrator to clarify proposed language. |
| 380 | Stembridge | Clarifies that language on page 25 (3) line 8, was further amended to include Option C of the hand-engrossed amendments. |
| 390 | Sen. Lim | MOTION: Moves to AMEND HB 2143 on page 25 (3) line 8 and insert text in Option C of the hand-engrossed amendments. |
| 395 | Chair Lim | Hearing no objection, declares the motion CARRIED. |
| 435 | Sen. Dukes | Moves to recommend to Senate Rules Committee proposed changes to HB 2143. |
| 440 | Chair Lim | Hearing no objection, declares the motion CARRIED. |
| | Coos County Board of Commissioners | Testimony in support of HB 2143, submitted but not read, by Bev Owen and Gordon Ross [EXHIBIT E]. |
| 445 | Chair Lim | Adjourns meeting at 2:04 p.m. |

Submitted By, Reviewed By,

Nora Carlson, Jim Stembridge

Administrative Support Administrator

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EXHIBIT SUMMARY

A - HB 2143, proposed amendments, Committee staff, 2 pp

B - HB 2143, written testimony, Jim Whitty, 3 pp

C - HB 2143, written testimony, Tom Linhares, 1 p

D - HB 2143, hand-engrossed amendments, Bill Scott, 6 pp

E - HB 2143, written testimony, Bev Owen and Gordon Ross, 1 p
