

SENATE ETHICS, ELECTIONS, AND CAMPAIGN FINANCE COMMITTEE

June 10, 1993 Hearing Room B 3:00 p.m. Tapes 78 and 79
MEMBERS PRESENT: Senator Grattan Kerans, Chair Senator Neil Bryant
Senator Joan Dukes Senator Rod Johnson Senator Dick Springer STAFF
PRESENT: Annette Talbott, Committee Counsel Tamara Brichnan,
Committee Assistant MEASURES CONSIDERED: Public Hearing and Work
Session SB 843 Work Session HB 2275A . These minutes contain materials
which paraphrase and/or summarize statements made during this session.
Only text enclosed in quotation marks report a speaker's exact words.
For complete contents of the proceedings, please refer to the tapes. .

TAPE 78, SIDE A

005 CHAIR KERANS: Calls meeting to order at 3:15 p.m.

PUBLIC HEARING and WORK SESSION ON SB 843

WITNESSES: NINA JOHNSON, Executive Assistant, Secretary of State CHARLES
STERN, Yamhill County Clerk COLLEEN SEALOCK, Director, Elections
Division DAVID FIDANQUE, American Civil Liberties Union of Oregon (ACLU)
LYNN ROSIK, Assistant Attorney General, Oregon Department of Justice

008 ANNETTE TALBOTT, Committee Counsel: Discusses to the SB 843-1
amendment. (EXHIBIT A)

029 NINA JOHNSON, Executive Assistant, Secretary of State: Explains
the SB 843 -1 amendments. Discusses subsection 2, lines 11-22, page 1.
"This is primarily to give the clerks guidance when you have a multiple
resident situation, or multiple home, or multiple dwelling." Discusses
subsection 3, page 2, lines 1-5, "which just tells the clerks what to do
if a person's property is split by jurisdictional line. Explains that
subsections 4 through 8 "deal with the whole issue of somebody either
who has left temporarily. Comments that subsections 8 and 9 (page 2,
lines 21 through 31 and page 3, line 1) are new sections. Discusses
subsection 8 deals with "the person who is an Oregon inhabitant, an
Oregon resident, leaves where they live for temporary purposes, but has
not established another residence for voter registration purposes, but
who does not have a place in which habitation is fixed." Subsection 9
deals with the homeless voter issue. 109 CHAIR KERANS: Discusses
subsection 8. Comments that this deals with the person who is the
"floater." 118 SEN. DUKES: Comments that it says that the person has
left the place of residence for temporary purposes ~~ only.

120 CHAIR KERANS: Reads from the subsection "and who does not have a
place in which habitation is fixed." Senate Ethics, Ele - ;ons, and
Campalgn Finance Committee June 10, 1993 - Page 2

121 SEN. DUKES: Comments that if the people have sold their house "I
don't think you could consider that a temporary purpose." 123 CHAIR
KERANS: Discusses the issue of people with no fixed address. References
people who travel. 141 JOHNSON: "I would be reluctant to only say
we're talking about the people who have the 5th wheel. There are many
other folks affected by this who aren't floating around the United
States in an RV." 145 CHARLES STERN, Yamhill County Clerk: Explains
that they have taken concepts from ORS 253, dealing with long term
absent voters, and applying it to people who have been residents of
Oregon but have not left the continental United States. 159 CHAIR
KERANS: "And has a long time affiliation and in their heart believes

they are an Oregonian." Discusses the types of people Mr. Stern referred to. 161 STERN: Discusses a specific example.

178 SEN. DUKES: "I think the way it's worded person you're talking about is clearly coming back...they are gone for a fixed period of time they intend to come back. The person you're talking about Mr. Chair, doesn't necessarily have any plans to return other than to drive through and visit friends on occasion...I don't think somebody who has bought the fifth wheeler and visiting parks in the southern United States and in the summer heads up to Canada has left their residence for a temporary purposes only. I don't think you can register them under this."

191 COLLEEN SEALOCK, Director, Elections Division: Explains that they would read the provision jointly that the people have left for a temporary purpose and have established another residence for voter registration. "It was our intent when we wrote this that it would cover that." 200

SEN. DUKES: Discusses the issue of allowing people to vote and register who have left the state and do not necessarily have intentions to return. "I think there is a real difference between somebody who leaves temporarily and wants to vote in a particular state and has to be attached to the state and someone who leaves but wants to vote in Oregon. I think there is a policy question in there."

224 STERN: Discusses the issue as it applies to people in the military. 240 SEN. DUKES: Comments on Mr. Stern's remarks.

248 SEN. JOHNSON: Asks how section 2 and section 9 relate with regard to factors to consider for residency. (EXHIBIT A)

253 JOHNSON: Discusses lines 5-7 on page 1. "Shall consider the following rules, so far as they may be applicable." Explains that for homeless people subsection 9 is the applicable provision for this statute. (EXHIBIT A)

262 SEN. JOHNSON: Asks if subsection 9 stands by itself.

JOHNSON: Comments that it would "if you have a truly homeless person."

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264 SEN. JOHNSON: Comments on the provision for the homeless and how it applies equally to "people who were Oregonians and are now homeless and to out-of-staters who show up and are homeless. Right?" Comments that there is no connection that a homeless person had to have a home in Oregon at some time. Asks how that keeps Oregon from the Rahjoeshee problem.

277 JOHNSON: Explains that the Rahjneeshee problem exists under current law.

296 SEN. JOHNSON: "According to what I first asked you about the connection between 2 and 9 that's the reason I asked that because what your answer was that 9 stands by itself. All they have go to do when they start to getting asked those question is say wait a minute I'm homeless those things don't matter anymore."

302 STERN: Discusses Sen. Johnson's statement.

320 SEN. JOHNSON: Explains that his concern is that all a person has to do is say that they don't have a home and be registered. "Maybe we can weave in something here that would require some previous tie to Oregon."

336 STERN: Explains that the Rahjneeshee problem was not with having an address. "The issue was how do you deal with people that couldn't give a traditional address."

367 JOHNSON: Explains that the state has very minimal requirements for registering to vote. "All that we can constitutionally do in this state is meet the minimum age, basically, and then the residency and citizenship requirement. There's no a lot more condition that we can impose. I don't think constitutionally we could prohibit a homeless person from registering in this state. What we're trying to do is have some standardized way of handling it."

386 SEN. JOHNSON: Discusses the homeless issue with regard to a candidate who gets homeless people to register and vote for her/him based on a platform to help the homeless. Wants to know what can be done about that.

402 STERN: Explains that the possibility exists today.

411 SEN. JOHNSON: Asks if they don't have the right to require some sort of traditional address. 415 CHAIR KERANS: Asks what the law is for homeless people today. 416 SEALOCK: Explains the current law under ORS 247.121 subsection 1 paragraph B. Comments that this bill does not "really change it." JOHNSON: "So you're just more or less putting better language to the existing situation?" SEALOCK: Comments that is what they are doing and putting it under the same area. 433 STERN: Explains that every instance, except for page 1, is for the purpose of clearing up language. 437 CHAIR KERANS: Comments that page 1 is applicable only when they have a fixed address.

449 STERN: Explains that this looks at issues on the coast and other areas such as resorts. .~. . lbeae minutes contain materials which paraphrase and/or summarize state ~ents made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. _ . Senate Ethics, Elections, and Campaign finance Committee June 10, 1993 - Page 4

457 CHAIR KERANS: "Having looked at it again I don't think there is any way to say that you've go to choose one or the other. And that you have to be in the one we want you to be in." 463 JOHNSON: Discusses the reasons for the diffulty to craft language on this issue.

479 SEN. DUKES: "I can't see how it fits in here. We talked about doing it in the motor voter bill. It doesn't fit with the homeless. Everybody who lives in Oregon deserves a right to be registered someplace. What's frustrating to me is folks who own a home in some part (and that's where they normally live). We literally had construction workers in a town in my district register to vote for a mayoral race." Continues to discuss the issue. 494 CHAIR KERANS: Comments that there is nothing that can be done about it as long as "we have the statutes we do. Isn't that right?"

TAPE 79, SIDE A

036 SEN. DUKES: Responds to Chair Kerans. 039 SEALOCK: Explains how

the list found in subsection 2 is an attempt to rectify the type of situation that concerns Sen. Dukes.

051 SEN. DUKES: Discusses people who have vacation homes at the coast. "Unless you throw in something like where they have their kids registered in school." 054 JOHNSON: Discusses criteria in subsection 2. Comments that people "have to choose under this." (EXHIBIT A)

060 CHAIR KERANS: Discusses whether or not people would be taken off the rolls in Multnomah county if they become an inhabitant of Gearhart by "registering their vehicles down there, they file their income tax returns from there, they change their license, all their mail comes from there, and that's where they pay for utility services, and any other business gets paid out of there, for all intents and purposes that's where they live." 069 SEN. DUKES: Asks how the Secretary of State anticipates it will take to prove-a person is a resident.

074 SEALOCK: "That's a very difficult question because I think what you would have to do is look at each unique situation." 076 SEN. DUKES: Discusses a specific example regarding a challenge on someone's residency in which a person has a vacation home where she/he spends one weekend a month and the person meets 3 of the 5 criteria. Asks if that is enough to determine that the person is a resident. 085 STERN: Explains that they will consider the criteria, but they are not limited to it. Comments that certain criteria may have more "weight" than the other. Discusses Sen. Dukes' example. 101 SEN. DUKES: Asks a question regarding where the person is licensed to drive. Discusses that motor vehicle records deal with "domicile" as well as "residency." Explains that residency is much more general. 119JOHNSON: Explains that part of the problem is that voter registration has some of the highest standards.

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120 SEN. DUKES: Comment that they are possibly lowering the standard by adding the ability to consider where the person is licensed to drive as part of the criteria.

136 JOHNSON: Explains that there are not many factual indicia that can be used because of the standard is "the highest. "

141 CHAIR KERANS: "I think this idea of where you're children go to school or register to go to school, that's where home is." Comments that he doesn't think that it needs to be added to the criteria.

145 SEALOCK: Explains that there are some exceptions in which children are registered in private schools that are not in the same city in which they have residence. Discusses a specific example. 157 CHAIR KERANS: Asks Mr. Fidanque to testify. 161 DAVE FIDANQUE, American Civil Liberties Union of Oregon (ACLU): Testifies in support of SB 843.

176 TALBOTT: Discusses subsection 8, with regard to applying to members of the congressional delegation.

186 JOHNSON: "I think that that would be interpretation of fixed habitation. That's not dissimilar from the inhabitant. It's a derivative of the word inhabitation. It's a fixed dwelling or abode where they intend to stay. What those people would argue is they are away temporarily."

192 TALBOTT: Asks if subsection 7 would cover them before subsection 8 would. "I understand that subsection 8 is the issue of people who actually do not have a fixed dwelling or any sort of place, even like a homeless place like a street corner, because they're driving around in their recreational vehicle versus somebody who moves to Washington D.C and only lives there temporarily, but they do have a dwelling and a place that's fixed they temporarily live in." Asks what is the intention of the draft. (EXHIBIT A)

205 LYNN ROSIK, Assistant Attorney General: Explains that a member of congress would be considered the same way as people who have left the state for temporary purposes with an intent to return. Explains that subsection 7 would apply to them if they have left their residence and intend to return and maintain that residence. Explains that if the member of congress left for temporary purposes, but for a very long time and no longer maintain a residence in the state of Oregon, but "in their mind intend to return to Oregon" they would be covered by subsection 8. (EXHIBIT A)

223 CHAIR KERANS: Asks where they get their ballot.

LYNN ROSIK: Comments that they vote by absentee ballot.

226 CHAIR KERANS: Discusses section 1, subsection 1, with regard to habitation. (EXHIBIT A)

237 ROSIK: Discusses subsection 8 in which Legislative Counsel drafted the language " 'Notwithstanding subsection (1) of this section'....to point out that this is a different situation and they may not intend to return that particular location. They're temporarily absent from the state, but not temporarily absent from a to particular residence."

247 SEN. DUKES: Comments that she does not believe that it "takes care of the snowbirds." Asks who won't be able to register to vote under this statute.

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251 JOHNSON: Explains that a person has had to have a physical presence here. 253 SEN. DUKES: "So as long as you visit the state?"

JOHNSON: "I think it's more than that obviously we discussed this at great length."

SEN. DUKES: Comments that a person could claim she/he is homeless.

256 JOHNSON: Explains that there is nothing they can do about that.

260 SEN. DUKES: Comments that the questions can be asked until the person claims that she/he is homeless.

266 JOHNSON: Explains that she believes this "requires at a minimum that there be a physical location within the county that describes where they are. They would have to give you that much information. People are signing under penalty of prosecution." Discusses the problems with

regards to registration without a centralized voter system.

286 TALBOTT: Explains that the "notwithstanding" language is crucial in section 8. "These sections shall all be considered when the issues they raise are applicable and they don't necessarily stand independently you have to read them together at some point."

298 CHAIR KERANS: Asks if any body at the hearing has better language than the SB 843-1 amendments.

301 SEN. DUKES: "I'm still not sure those snowbirds ought to be voting in local elections."

302 CHAIR BRANS: Comments "this is better than we've got now."

304 TALBOTT: Discusses the married/unmarried person deletion.

310 JOHNSON: Discusses the statute.

315 CHAIR KERANS: Discusses the statute as relating to the married/unmarried person registration requirements.

323 MOTION: CHAIR KERANS: MOVES the SB 843-1 amendments dated 6/10/93.

VOTE: CHAIR KERANS: Hearing no objection THE MOTION IS ADOPTED. EXCUSED: Sen. Bryant.

330 MOTION: CHAIR KERANS: MOVES SB 843 AS AMENDED to the FLOOR with a DO PASS recommendation. VOTE: Hearing no objection THE MOTION CARRIES. EXCUSED: Sen. Bryant.

WORK SESSION ON HB 2275A 341 TALBOTT: Refers to the computer engrossed bill and the amendments. Explains sections 14 and 17 (ballot .

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measure numbering). (EXHIBITS B,C)

370 CHAIR KERANS: "I would leave it as we find it there for the moment."

371 TALBOTT: Explains section 16, with regard to the additional material for hearings on fiscal issues of ballot measures. Explains section 22, with regard to the notarized statements. (EXHIBIT B)

400 CHAIR KERANS: "Why don't we put an X next to that one. What I would like to do would be to see if we can't further work on this."

428 TALBOTT: Discusses page 14, lines 9-13, explains that is the new language that was proposed at the last hearing. Discusses page 15, subsection 6, of section 41 regarding the precincts with less than 100 electors. (EXHIBIT B) 453 CHAIR KERANS: Comments that he believes Sen. Dukes is still concerned with that section. 457 TALBOTT:

Discusses section 59, regarding the issue of the statute of limitations on page 23, which require how long a candidate has to keep their accounts. (EXHIBIT B) CHAIR KERANS: "I'm OK on two years." 469 SEN. JOHNSON: Asks what the need is for that. 470 CHAIR KERANS: Responds

to Sen. Johnson's question and comments that he would like to make the record keeping requirement for candidates coterminous with the statute of limitations for the Secretary of State. Asks what the statute of limitations for fraud tort is. 483 TALBOTT: Comments that it is a tort of fraud and that the statute of limitation is the same for other torts. 488 SEN. JOHNSON: Asks that the committee continue to look at this issue. 492 CHAIR KERANS: Asks if it is alright to make the statute of limitation the same as the length of the "record retention requirement."

TAPE 78, SIDE B

037 JOHNSON: "We're fine with that. The one thing we would like to keep in the bill is a 10 year statute of ultimate repose where if somebody deliberately hides a violation...that you have some ability. Just for that extraordinary situation which could come up."

046 SEN. JOHNSON: Asks if that is already in existing law.

047 JOHNSON: Explains that currently there is no limit and that HB 2275 "gives you the two year limit, plus this unusual ten year situation." 054 CHAIR KERANS: "Let's make the statute of limitations run for two years, the same as fraud. The record would be the same." Comments that the committee will discuss the statute of ultimate repose in section 81. Asks if this is intended to be retroactive or prospective. - These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks repon a speaker's exact word). For complete contents of the proceedings, please refer to the tapes. Senate Ethics, Elections, and Campatgn Finance Committee June 10, 1993 - Page 8

JOHNSON: Comments that it is prospective.

062 SEN. JOHNSON: Discusses section 81. Comments that the two year statute of limitations should be in section 81.

069 CHAIR KERANS: Explains that he intends that.

072 JOHNSON: Clarifies that this is when the Secretary of State can initiate a complaint. Explains that somebody else other than the Secretary of State has narrower limitations.

078 CHAIR KERANS: "So after 90 days within two years it's up to you. After two years someone has got to come and lift that limitation by showing actual deceit." 082 SEN. JOHNSON: "I thought we if we found out that the normal court thing was less than two years we'd shorten it." CHAIR KERANS: "If it is that's fine with me." SEN. JOHNSON: "Isn't the practical that somehow tied to the final C & E report any campaign is due. Don't we have filing due in September that is a final report for an election.?" CHAIR KERANS: Discusses C & E report filing dates. Asks if the two year statute of limitations begins once a zero balance has been reached by the candidate. 091 JOHNSON: "No."

CHAIR KERANS: "Is it the election?" 092 JOHNSON: "This really limits us so you could have somebody who has been carrying their balance for years and we wouldn't be able to go back into it. We'd only be able to go back two years."

094 CHAIR KERANS: "Or at least two years after the date of the last supplemental statement. It says right there on line 20, page 23."

(EXHIBIT B)

100 TALBOTT: Explains that is not the statute of limitations. It is the account records.

102 SEN. DUKES: Discusses the supplemental statements and how long they would run. Explains that the statute of limitation could actually go for four years. 112 SEN. JOHNSON: "No matter what you just said I think what we've just discovered this all means I don't know that six months isn't appropriate. Six months after you file your final papers they should have their stuff together well enough to be able to bring action within the six months after you give them your final report."

116 CHAIR KERANS: Discusses making it one year. 117 JOHNSON: Comments that they should read the sections together because the one they have been focusing on is the requirement for how long they need to keep their accounts. ~ . . These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks repon a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. Senate Ethks, Elections, and Campaign Finance Committee June 10,1993 - Page 9

120 SEN. DUKES: Ask if it is changed to two years and she carries a balance and files supplemental reports every year if she has to keep all the information until two years after the last supplemental report.

129 SEALOCK: Comments that in reading this Sen. Dukes is correct. Explains what the intent was. Discusses that they need to go back look at this section.

142 SEN. DUKES: Discusses that after campaigns candidates may still be paying off debt. "You want to be able to get at any fraud...is going on during that time...but there is a period of time after an election that there still can be a fair amount of activity."

149 SEALOCK: Explains that is why they inserted the last supplemental.

152 SEN. DUKES: Comments on what the last supplemental report is called. Ms. Sealock informs her it is a "post" election report. Sen. Dukes states that they can "probably insert that in here and be OK then." 155 SEALOCK: Discusses their concern with the committees that might not run again that file supplementals. 157CHAIR KERANS:

Discusses that they can look at the 5th and 6th supplemental, but not the 4th, 3rd, 2nd, or original. 161 SEALOCK: "What we were attempting to do was capture both those kinds of instances where a campaign really only exists for one election, but because of their own organizational structure they never balance out, never end, so they just keep filing supplementa] ;." 165 CHAIR KERANS: "And what you want to do is cover the entirety of that campaign and the gateway to it is through the last supplemental. Isn't that what you intend?" SEALOCK: "That's correct."

167 TALBOTT: Comments that it says whichever is later. "If it cuts off because they don't file supplementals, then it would just be two years from when their report was filed. If they file supplementals, then I'm not sure actually this isn't OK for what you intended." 172 CHAIR KERANS: Explains the way he originally read the provision. "I think it's just accounts kept by candidate shall be preserved by the candidate for at least two years after the election or at least two years after thy file supplemental. So you've got to keep it all until two years after your last supplemental and if you go through supplemental you get everything in between. Isn't that the way you read that?"

184 SEALOCK: "I believe it is." Discusses that she would like to go

through it and take some time. 187 SEN. DUKES: Comments that she does not see a "real good reason" for keeping records for six years.

189 CHAIR KERANS: Discusses going from two years to one.

195 SEN. JOHNSON: Asks if a candidate could bring the books to a zero balance, put the money in a new account and "start these limitations running here?"

200 SEALOCK: "Absolutely." . These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. Senate Ethics, Elections, and Campaign Finance Committee June 10, 1993 - Page 10

202 CHAIR KERANS: Comments that if he doesn't run that he would have to "zero it out" and account for the money or file supplementals.

207 TALBOTT: Discusses section 77, page 34, with regard to the insertion of language regarding sending the notice to the candidate as well as the candidate's treasurer. Refers to section 81, which they have already discussed. (EXHIBIT B) 228 SEALOCK: Discusses their concern with particular language in section 77. "It was our hope that it would be drafted that we'd send the certified copy to one and then just a regular mail copy to the other." (EXHIBIT B) 239 CHAIR KERANS: Comments that he would like the certified copy to go to the candidate.

240 SEALOCK: Comments that if the candidates name is going to be taken off the ballot the certified copy should go to the candidate. Discusses who the certified notice should go to when it deals with the issue of the C & E penalty. 256 CHAIR KERANS: Discusses sending it to the candidate rather than the treasurer. 261 JOHNSON: Explains that they want to avoid serving two certified notices.

264 CHAIR KERANS: Accepts Ms. Johnson's suggestion to send the certified notice to the candidate and a copy to the treasurer.

272 TALBOTT: "The clock goes to the signature on the certified that goes to the candidate." For purposes of a hearing deadline.

274 SEN. DUKES: Comments that they both have a legal responsibility. Comments that she prefers to send the certified copy to the treasurer.

282 CHAIR KERANS: Discusses the "absent treasurer problem."

290 TALBOTT: Discusses the statute of limitations in section 81. (EXHIBIT B) 305 CHAIR KERANS: Discusses the statute of limitations. "Shouldn't the record retention and your ability to take an action on your own motion be the same time?" 313 JOHNSON: Discusses their concern with making the statute of limitations too short. 326 CHAIR KERANS: With regard to sections 59 and 81 "let's make them the same at two years, we have to go farther in keeping them. That's four times longer than the current law...make that two years. Then on page 36 we take the four years down to two. That's your window of opportunity. Page 37, and ten years I'm sorry. How about 5? (for the statute of ultimate repose)." Explains the reason from going from ten years to five years for the statute of ultimate repose.

358 JOHNSON: "That's fine Mr. Chair."

362 MOTION: CHAIR KERANS: MOVES a conceptual amendment to require for record

retention

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and statute of limitation and a 5 year statute of ultimate repose.

CHAIR KERANS: Hearing no objection THE MOTION IS ADOPTED. EXCUSED: Sen. Bryant, Sen. Johnson.

367 TALBOTT: Discusses sections 77 and 83 in regards to the issue of a request for a hearing within so many business days. Discusses the concern with reducing 5 days to 3 days. 375 JOHNSON: Explains that they would be happy to go to 3 business days or back to existing law.

378 CHAIR KERANS: States that 3 business days is acceptable. MOTION: CHAIR KERANS: MOVES to go from 5 business days to 3 business days with regard to a request for a hearing. CHAIR KERANS: Hearing no objection THE MOTION IS ADOPTED. EXCUSED: Sen. Bryant, Sen. Johnson.

390 TALBOTT: Discusses Sen. Springer's concern regarding water districts in sections 84 and 86. 394 JOHNSON: Comments on where the bill is that deals with that issue.

403 CHAIR KERANS: Discusses a work plan for HB 2275, with regard to placing HB 2272 into HB 2275.

430 CHAIR KERANS: Adjourns the meeting at 4:39 p.m.

Submitted by:

Reviewed by:

Tamara Brickman

Annette Talbott Assistant

Counsel EXHIBIT LOG A - SB 843-1

Amendments dated 6/10/93 - Committee Staff - 3 pages B - HB 2275A Computer Engrossed version as amended by the -A9 and additional amendments - Committee Staff - 50 pages C - HB 2275-A9 Amendments as Amended dated 6/3/93 - Committee Staff - 5 pages

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