

MINUTES

MONTANA SENATE 53rd LEGISLATURE - SPECIAL SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Halligan, Chair, on December 14, 1993,
at 4:50 p.m.

ROLL CALL

Members Present:

Sen. Mike Halligan, Chair (D)
Sen. Dorothy Eck, Vice Chair (D)
Sen. Bob Brown (R)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John Harp (R)
Sen. Spook Stang (D)
Sen. Tom Towe (D)
Sen. Fred Van Valkenburg (D)
Sen. Bill Yellowtail (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jeff Martin, Legislative Council
Beth Satre, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: None.
Executive Action: SB 27, SB 25, SB 42, SB 1, SB 21

EXECUTIVE ACTION ON SENATE BILL 27

Discussion:

Senator Van Valkenburg remarked that the Committee had finished a "fairly lengthy" discussion about the constitutional amendment issue on property taxes the previous day. He said since that meeting he had given the issue additional thought and had attempted to arrive at some combination of **Senator Crippen's** proposed constitutional amendment, SB 17, and his proposed constitutional amendment, SB 27. He stated that the proposal **Senator Crippen** had presented to the Committee the day before

would have changed the real substance of SB 27 and caused him to conclude that any agreement would be difficult and perhaps impossible given the present time constraints. **Senator Van Valkenburg** said the entire Senate needed to be involved in the property tax issue as did the House. He stated it would be best to try and SB 27 in its original form and begin to let the legislative process take its course. He reminded the Committee that SB 27 was a proposed constitutional amendment and would go to the House even if it did not get any votes on the Senate floor leaving opportunity for a free conference committee to work out an agreement on the various positions.

Motion:

Senator Van Valkenburg MOVED SB 27 DO PASS.

Discussion:

Senator Van Valkenburg emphasized that SB 27 contained "pretty darn good policy". He said it was not perfect, but added it would maintain the requirement for equalization and give Montana taxpayers the certainty, if adopted in an election, that the value of their property for property tax purposes would not increase by more than four percent per year. He said he did not know if it were possible to come up with anything more straightforward or more understandable to the average citizen then to give them the constitutional assurance that they would not suffer the consequences of people buying property around them and driving up the value of their property. He noted that **Senator Crippen** and lots of people in both parties were very interested in looking at the issue of acquisition value and suggested the House amendments to SB 27 would probably contain that concept. He concluded the Committee would "do everyone a great service by moving SB 27 along".

Senator Brown spoke in support of the motion. He agreed with most of **Senator Van Valkenburg's** comments and stated the reference to the four percent would make the Legislature's goals clear to the public. He noted it would be fine with him if SB 27 could be amended on the Senate floor to include some reference to acquisition value and added if that happened in the House he would agree to that amendment. He stated **Senator Van Valkenburg's** motion was important progress toward passing something that would give the Legislature more flexibility in dealing with the property tax problem. He expressed hope that the Committee would vote unanimously in support of the motion.

Senator Harp noted his only concern was that the four percent level was too high. He asked if **Senator Van Valkenburg** was "pretty solid" on that figure. He noted that **Senator Crippen** had recognized the importance of putting something in the Constitution to assure people that a cap would be placed on their property taxes and had offered one percent. **Senator Harp**

wondered if a lower percent might be more advisable given the fact that the Legislature's constitutional amendment would be competing against other groups on the ballot in November. He said that competition would be for not only the constitutional amendment, but the direction Montana would go with property taxes and taxes in general.

After noting he was always open to persuasion, **Senator Van Valkenburg** replied he did not think a lower percentage was advisable because people who are experiencing decreases or no increases in property value would be voting along with those who live in those areas currently experiencing increases at rates greater than four percent per year. He noted he did not know whether that inflation would continue over the long-term and added that to the extent that values are limited, there is a very real possibility that the property tax burden would be shifted to those property owners experiencing decreases or not as great a rate of increase in value. **Senator Van Valkenburg** stated those people are as much citizens of this state and as much in need of protection from property tax increases as the people in his and **Senator Harp's** areas. He added those people were smart enough to figure the facts out by the November vote. He noted he had never underestimated the intelligence of the Montana voter when it comes to making long-term choices.

Senator Harp said he appreciated **Senator Van Valkenburg's** response. He asked if SB 27 stood on its own. **Senator Van Valkenburg** responded it did.

Chair Halligan noted he did not want to open the discussion up to comments from many people but asked if **Senator Crippen** would like to make a brief comment.

Senator Crippen expressed his disappointment that it had not been possible to "work this thing out ahead of time", even though he had brought something between **Senator Van Valkenburg's** and the Governor's proposals to the Committee the day before. He stated, however, he would agree to sending SB 27 down to the Senate floor. He asked **Senator Van Valkenburg** as the **President of the Senate** to give assurances that he was willing to sit down, talk and work out a compromise with the Senate Minority on this issue.

Senator Van Valkenburg stated he had already declared himself willing to work with anyone in order to solve problems in all areas but particularly in the area of property taxes. He stated he was still willing to do that but had reached the conclusion that the best way to "bring that about" would be to move SB 27. He added he had heard nothing to persuade him differently.

Senator Crippen said after talking to **Senator Van Valkenburg**, he had understood that they would be a meeting with the Governor that night to discuss possible changes and modifications to SB 27. He admitted that could have been a misunderstanding. He added Governor Racicot was "ready to go" and expressed his hope

that the meeting could still take place in order to discuss a possible floor amendment to SB 27. **Chair Halligan** stated that possibilities for discussion still existed, that nothing would be foreclosed.

Senator Gage asked **Senator Van Valkenburg** if he had considered amending SB 27 to refer to "taxable value" as opposed to "valuation". He explained the current language would still allow the Legislature to raise the tax even though the value was limited to four percent. **Senator Van Valkenburg** responded he had only considered that issue in a very general manner because he understood it to be directly connected to the issue of assessment. He stated the Constitution contained the language "appraise, assess, and equalize". He said he would give more thought to that issue, but had not factored it into SB 27 because, given his experience, "something needed to get moving" if the Legislature was to really solve something in the next four days.

Senator Grosfield agreed that something needed to get moving. He asked that motion before the Committee be clarified as he had arrived late. After being told that **Senator Van Valkenburg** had moved SB 27 as introduced, **Senator Grosfield** said that one of the revised versions presented to the Committee the previous day included some language on acquisition. He offered the opinion that SB 27 should have "some inkling of acquisition value in it" before it goes to the House.

Senator Van Valkenburg stated that, based on his experience in the last 48 hours, he did not think that the Committee could reach agreement on the issue of acquisition value soon enough. He repeated he thought it better to "try and move" SB 27 and work on agreements "at other times".

Senator Grosfield asked if **Senator Van Valkenburg** was expecting that SB 27 would contain acquisition value in some form before it was finalized. **Senator Van Valkenburg** noted that since the House was controlled by the Republican Party and the Governor is Republican, has a great interest in acquisition value, and is very persuasive, there was a good chance.

Senator Brown said "it goes without saying that we are free to propose amendments when [SB 27] comes on the floor of the Senate". **Senator Van Valkenburg** replied "of course".

Senator Eck said she would support the motion, but stated she did not like it because it was language that did not need to be in the Constitution. She noted that the ballot language was not "awfully clear", but added those are details and could be worked out.

Senator Towe said he had some of the same concerns as **Senator Eck**. He stated he was very concerned about putting specific numbers in the Constitution and making it unclear whether a

different kind of a limitation could be allowed. He concluded, however, he would support the motion in order to get SB 27 moving.

Senator Van Valkenburg said four percent was a reasonable number to include in SB 27 because people equated it with somewhat reasonable inflation. He stated most people hope and expect that their real property would appreciate in value and a four percent per year increase in the value of real property would correspond somewhat to the experience of the last five to six years. He stated he thought people would be willing to live with that kind of reasonable inflation. By placing the four percent on SB 27, **Senator Van Valkenburg** said he was trying to address the fact that property owners are scared by the effects of sudden tremendous increases in the value of real property. He stated the Governor's Property Tax Advisory Council (PTAC) had chosen the four percent and expressed his hope that the limit would stay at that level.

Vote:

The MOTION SB 27 DO PASS CARRIED with **SENATOR YELLOWTAIL** voting NO.

EXECUTIVE ACTION ON SENATE BILL 25

Discussion:

Senator Van Valkenburg noted that the PTAC had also recommended the proposals contained in SB 25, but the fiscal note issued by the Office of Budget Planning and Programming (OBPP) was startling. He called those numbers into question and expressed his desire to have an independent analysis done of the fiscal note and the fiscal impact of SB 25. **Senator Van Valkenburg** stated, however, it would not be fiscally responsible to pass SB 25 in its current form and distributed a set of amendments (Exhibit #1). He explained some aspects of SB 25 definitely belonged "in the [property tax] mix" during the final days of the special session. He identified two specific areas that were essential to mitigate the effects of the property tax increases on low income property owners: extending the 1993 tax year application deadline for the low income property tax reduction: and expanding the eligibility for the low income property tax reduction from tax year 1994 on. **Senator Van Valkenburg** pointed out the provisions in SB 25 pertaining to those two areas and clarified the purpose of amendments he had distributed. He noted that the provision contained in SB 25 to expand the eligibility requirements for the low income reduction was tied to a 1986 instead of 1993 base year. He said the amendments would change the base year to 1993 and delay the effective date of that section of SB 25 until January 1, 1994 so it would apply to the next calendar year for property tax purposes. He stated the amendments would also strike sections four, five, and seven. He explained those sections contained the provision to rollback and

phase-in the new reappraisal values over three years. He noted those sections were responsible for most of the fiscal impact specified in the fiscal note. **Senator Van Valkenburg** said he thought it premature to be putting those provisions into statute before the public voted on the proposed constitutional amendment.

Senator Van Valkenburg informed the Committee that the Legislative Fiscal Analyst's Office had advised him that these changes to SB 25 he had outlined would substantially reduce its fiscal impact. He asked if a representative of the Legislative Fiscal Analyst could explain the fiscal impact of the proposed changes.

Referring to the fiscal note on the unamended version of SB 25, **Jim Standaert, Legislative Fiscal Analyst**, noted that the impact of the low income exemption for fiscal year (FY) 1994 was a projected \$7 million reduction in taxes to all taxing jurisdictions. He stated the state's share of that \$7 million was \$1.798 million when the income limits were increased and calculated using 1986 as the base year. He said if the proposed income limits based on 1993 values were used instead, the impact to all taxing jurisdictions would be \$3.2 million and the state share of that would be \$809,000. He stated the reduction in state property tax revenue in FY95 would also be a little over \$809,000 since it would be effective in tax year 1994 and would affect the November and May payments of 1994 and 1995.

Senator Harp asked **Mick Robinson, Director, Department of Revenue (DOR)**, to comment on the proposed amendments and their effects on SB 25's fiscal impact. **Mr. Robinson** asked if the filing date extension would remain in SB 25. **Jim Standaert** replied SB 25 would still extend the filing date and the fiscal impact of that provision would be \$1.798 million.

Senator Van Valkenburg said the fiscal note overstated the impact for FY94 since the increased eligibility would not go into effect until 1994.

Mick Robinson agreed with **Senator Van Valkenburg** and explained that DOR had based their calculations on the idea that the increased eligibility would go into effect for the 90 day extension. Recalling his involvement in the PTAC proceedings, **Mr. Robinson** said if the application date were just extended and the state assumed that cost, the dollar amount would range between \$1.5 to \$4.5 million depending on the percentage of eligible people taking advantage of that program. He added the current rate of participation was 24 percent and, if the participation rate doubled the cost of extending the application period would be \$1.5 million. He noted, however, it was "anybody's guess" how many people would participate in the program as the income levels were increased and what impact the change in participation would have in FY95. **Mr. Robinson** asked to have the \$809,000 amount identified.

Mr. Standaert responded the \$809,000 was the fiscal impact directly connected to the revision of the income limits associated with the low income reduction. He explained that dollar amount would not take into account the costs associated with the 90 day extension.

Mick Robinson noted that the PTAC had recommended that the state pick up the cost associated with the extension but had indicated that in FY95 or tax year 1994, local jurisdictions would receive less property tax revenue as the result of the expanded low income eligibility reduction. He said the \$809,000 only represented the cost associated with the 101 mill reduction at the state level and did not reflect the decreased tax revenue for local jurisdictions.

Senator Van Valkenburg replied he had intended that the impact of SB 25 would be so distributed. He explained he was working on a property tax reduction proposal in which the total impact to local government would not substantially differ from the proposal adopted by the House which included the use of the personal property tax reimbursement block grant. He said he was unsure whether the use of that grant was appropriate but added he felt that as this matter proceeded the Legislature would need to decide what funding mechanisms were available and should be used.

Senator Towe asked if either DOR or the Legislative Fiscal Analyst's Office had a break down of how the different participation rates in the low income reduction program would impact both local and state revenues. **Jim Standaert** replied he did not have those numbers. He explained that the state's share was 25 percent of the total impact of revising those income limits associated with SB 25. He noted the fiscal impact to the state associated with that portion of SB 25 in its original form was 25 percent of \$7 million or approximately \$1.798 million.

Senator Towe asked if a constant ratio could be established in regard to the relationship of total county money to state money in the fiscal note. **Jim Standaert** replied if the state share is \$800,000, that number would represent approximately 25 percent of the total impact to all taxing jurisdictions. He noted the total impact to all taxing jurisdictions would then be \$3.2 million.

Senator Towe asked if that same ratio would also apply to the extension. **Jim Standaert** said yes. **Mick Robinson** replied he would agree to that ratio in terms of the percentage of the total property tax relief connected to the reduction, but added the state share would be about 24 percent. He reminded the Committee that the numbers were based on the assumption of a particular rate of participation. **Mr. Robinson** noted that in the past only 24 percent of those eligible for the low income exemption actually utilized it. He stated projecting how many individuals will actually participate in the future was difficult, especially since the lack of participation could be partially attributed to the lack of publicity. He stated the fiscal note had been based

on the assumption that 33 percent of those qualifying would participate and cautioned the Committee that, as the percentage increases, there would obviously be a greater fiscal impact to the state and local governments.

Senator Towe asked **Mick Robinson** if he was comfortable with using the \$809,000 and \$3.2 million figures. **Mr. Robinson** responded he would be comfortable with those dollar amounts based on the underlying assumption regarding 33 percent utilization.

Senator Towe asked if **Mr. Robinson** if he was comfortable with the numbers from the PTAC of \$1.5 million, which, according to the ratio, would amount to a \$375,000 impact for the state and \$1.125 million for local taxing jurisdictions. **Mick Robinson** replied the \$1.5 million had been based on a doubling of the utilization rate. He stated the PTAC had recommended that the state should pick up the entire cost for tax year 1993 because local government had already set their budgets, etc. He noted it would create great difficulties if local governments were required to go back and find those dollar amounts.

Senator Towe asked how the PTAC had proposed to take care of that situation. **Mick Robinson** replied the PTAC had considered the increased property tax revenue flowing into the state as the result of the average 7.3 percent appraisal increase as the revenue source. He said the increases in appraisal amounted to about \$4.5 million per year for the state.

Senator Towe noted that money did not always come from the right counties and asked **Mick Robinson** if he was satisfied with that funding source. **Mick Robinson** replied he did not know that a direct correlation existed. He explained whatever the costs, such a program would obviously have an impact on the General Fund balance because that additional property tax revenue was included in the revenue estimates from the beginning.

Senator Towe informed the Committee that with the amendments the fiscal impact of SB 25 would be \$1.184 million to the state and \$4.325 million to local governments.

Motion/Vote:

Senator Van Valkenburg MOVED TO AMEND SB 25 (Exhibit #1). The MOTION CARRIED UNANIMOUSLY.

Motion:

Senator Van Valkenburg MOVED SB 25 DO PASS AS AMENDED.

Discussion:

Senator Van Valkenburg said SB 25 represented only one element of the package of property tax relief that the Legislature should consider. Despite some of the anger and real unrest the 1993

property tax increases had spawned, **Senator Van Valkenburg** stated that the area addressed by SB 25 was the one most urgently needed because it would address those people who truly might be forced out of their homes. He stated the Legislature needed to address the other taxpayers and their concerns as well and emphasized that he did not intend to dismiss that issue, but added the very low income individuals deserved the special concern of legislators.

Senator Gage said he would support SB 27 but expressed his concern that the more relief the State provided in this area, the less local taxpayers would be concerned about what is happening to taxation on the local and county levels. He noted if property taxpayers could get a low income refund, they would no longer be so personally affected and motivated to oppose those changes.

Vote:

The MOTION SB 25 DO PASS AS AMENDED CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SENATE BILL 42

Discussion:

Senator Van Valkenburg informed the Committee that he had also been working on the issue of property taxation with **Senator Bartlett**, who had introduced SB 42. He noted he wanted to make committee members and **Senator Bartlett** aware he thought SB 42 offered a vehicle for the Legislature to attempt to address the concerns of middle-income property tax payers in Montana. He noted that with some amendments to reduce its overall fiscal impact to a level fitting within budgetary parameters, SB 42 represented a real possible addition to the legislative solution to the property tax issue.

Senator Harp said that the fiscal note indicated that major changes would be necessary in order to make SB 42 fit within the special session's budget. He said he had as yet had no problem with the action the Committee had taken, but added that acting on SB 42 in its current state would be "stepping beyond the bounds of reason". He stated unless there were amendments he could "look at, understand and digest" and offer the same opportunity to DOR and the Budget office, he could not support any action on SB 42.

Senator Van Valkenburg responded he did not yet have the needed amendments nor did he believe that **Senator Bartlett** did. He said he had wanted to indicate that his interest in property tax relief went beyond addressing low income people. He stated the Legislature needed to consider property tax relief for middle-income people as well.

Senator Towe stated he "really liked" the circuit breaker concept

and informed committee members that the amendments he had discussed with **Senator Bartlett** would do two things. He explained the amendments would reduce the \$800 maximum relief credit to \$400 which would correspond with the elderly tax credit maximum already in statute and make the credit applicable to 1994 taxable income. **Senator Towe** noted that the amendments would have a net fiscal impact of \$7.9 million.

Chair Halligan said the Committee would have something specific to look at and digest by tomorrow afternoon.

Senator Harp requested a new fiscal note on the amended version of SB 25. **Senator Van Valkenburg** concurred and expressed his hope that the Legislature would receive it more quickly than the last fiscal note.

EXECUTIVE ACTION ON SENATE BILL 1

Discussion:

Chair Halligan asked if there was any objection to moving SB 1 out of the Committee. No objection was expressed.

Motion/Vote:

Senator Gage MOVED SB 1 DO PASS. The motion CARRIED UNANIMOUSLY

Chair Halligan recognized that former Senator "Big Ed" Smith was attending the hearing.

EXECUTIVE ACTION ON SENATE BILL 21

Discussion:

Senator Towe stated he had one additional item for the Committee to consider now that the Committee had approved the constitutional amendment containing a four percent limit on increases in property value. He explained **Representative Elliott** had introduced HB 47 which contained a cost of living cap effected through an exemption from the tax in a way which did not raise any constitutional problem. He stated he was interested in incorporating that concept into SB 21, which he sponsored, using the statewide average instead of the consumer price index (CPI). **Senator Towe** noted HB 47 contained limits for an income eligibility requirement and he was interested in using that income eligibility requirement with a four percent number instead of a consumer price index. He said he had the pertinent amendments.

Chair Halligan asked **Mick Robinson** to ensure that DOR would coordinate and cooperate with **Jeff Martin** so that the Committee could receive the fiscal impacts of amendments being proposed for SB 42 and SB 21 in a timely fashion.

Senator Towe replied the amendments he was proposing would not have any fiscal impact until 1997 since it would establish a limitation for the future. **Chair Halligan** replied the Committee should have the chance to look at bill's fiscal note before taking action if at all possible.

Speaking for the Republicans on the Committee, **Senator Brown** remarked that they were encouraged by the progress the Committee had made that evening. He stated that after the Committee's actions, the Republican members had renewed hope that the special session would accomplish some important things in the areas of property tax relief.

Chair Halligan explained that his approach to the property tax issue was to wait until the pertinent bills and all the options were in the Senate Taxation Committee where the committee members have a history of being able to work together. He stated there were good minds in the Committee and the Senate who could now focus all of their attention on the question of property tax since the budget and school bills had already been dealt with on the Senate floor. He noted that Montana's property tax system could not be dealt with lightly and that it was now possible to make a concentrated effort toward reforming that system.

Senator Eck encouraged committee members to consider the concept in HB 47. She stated the concept appealed to her because it would allow the Legislature to limit increases in property taxes without having to deal with the problematic constitutionality of valuation. She noted that concept would not have any fiscal impact for the remainder of the biennium and would not address the problems of those people whose property taxes increased over the last year. She stated, however, it represented a very sound long-term approach and should be "kept in mind" as a possibility to address the next appraisal cycle if it could not be worked into SB 21.

ADJOURNMENT

Adjournment: 5:40 p.m.



SENATOR MIKE HALLIGAN, Chair

BETH E. SATRE, Secretary

MH/bs

ROLL CALL

SENATE COMMITTEE

TAXATION

DATE 4 December, 1993 (2)

NAME	PRESENT	ABSENT	EXCUSED
Sen. Halligan, Chair	X		
Sen. Eck, Vice Chair	X		
Sen. Brown	X		
Sen. Doherty	X		
Sen. Gage	X		
Sen. Grosfield	X		
Sen. Harp	X		
Sen. Stang	X		
Sen. Towe	X		
Sen. Van Valkenburg	X		
Sen. Yellowtail	X		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
December 15, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 1 (first reading copy -- white), respectfully report that Senate Bill No. 1 do pass.

Signed: 
Senator Mike Halligan, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
December 15, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 25 (first reading copy -- white), respectfully report that Senate Bill No. 25 be amended as follows and as so amended do pass.

Signed: 
Senator Mike Halligan, Chair

That such amendments read:

1. Title, lines 9 through 11.
Following: ";" on line 9
Strike: remainder of line 9 through ";" on line 11
Following: "15-6-134"
Strike: ", "
Insert: "AND"
Following: "15-6-151,"
Strike: "AND"
2. Title, lines 12 and 13.
Strike: "15-8-111," on line 12
Strike: "AN IMMEDIATE" on line 12
Following: "EFFECTIVE" on line 12
Strike: remainder of line 12 through "DATE" on line 13
Insert: "DATES"
3. Page 4, lines 7 and 17.
Strike: "1986"
Insert: "1993"
4. Page 5, line 24.
Strike: "act"
Insert: "section"
5. Page 6, line 8 through page 10, line 5.
Strike: sections 4 and 5 in their entirety
Renumber: subsequent sections
6. Page 10, line 6.
Strike: "date"
Insert: "dates"
Following: "."
Strike: "[This act] is"
Insert: "(1) [Sections 1 and 3 and this section] are"

7. Page 10, line 8.

Following: line 7

Insert: "(2) [Section 2] is effective January 1, 1994."

8. Page 10, lines 8 and 9.

Strike: section 7 in its entirety

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
December 15, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 27 (first reading copy -- white), respectfully report that Senate Bill No. 27 do pass.

Signed: 
Senator Mike Halligan, Chair

Amendments to Senate Bill No. 25
First Reading Copy

Requested by President Van Valkenburg
For the Committee on Taxation

Prepared by Greg Petesch
December 14, 1993

SENATE TAXATION

EXHIBIT NO. 1

DATE December 14, 1993

BILL NO. SB 25

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Insert: "AND"

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Following: "EFFECTIVE" on line 12

Strike: remainder of line 12 through "DATE" on line 13

Insert: "DATES"

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Strike: "1986"

Insert: "1993"

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Strike: "act"

Insert: "section"

5. Page 6, line 8 through page 10, line 5.

Strike: sections 4 and 5 in their entirety

Renumber: subsequent sections

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CAH