

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS

Call to Order: By Chairman, Senator Gary C. Aklestad, on
Thursday, January 26, 1989, at 1:00 P.M.

ROLL CALL

Members Present: All members were present.
Senator Tom Keating, Vice-Chairman, Senator Sam Hofman,
Senator J. D. Lynch, Senator Gerry Devlin, Senator Bob
Pipinich, Senator Dennis Nathe, Senator Richard Manning,
Senator Chet Blaylock, Senator Gary Aklestad, Chairman.

Members Excused: There were no members excused.

Members Absent: There were no members absent.

Staff Present: Tom Gomez, Legislative Council Analyst

Announcements/Discussion: There were no announcements of
discussion.

HEARING ON SENATE BILL 159

Presentation and Opening Statement by Sponsor:

Senator Chet Blaylock, Senate District #43, stated the bill
is a revision of the New Horizons Act and removes the time
reference for the evaluation and provision of services. The
bill will require the allocation of funds for incentive
awards at the beginning of each fiscal year. SB 159 will
expand the child care assistance to persons enrolled in
Displaced Homemaker Programs.

List of Testifying Proponents and What Group They Represent:

Lauri Lamson, representing the Department of Labor and
Industry.

Nancy Lien Griffin, representing the Montana Women's Lobby.

Virginia Jellison, representing the Montana Low Income
Coalition.

Chris Deveny, representing the League of Women Voters of
Montana.

Testimony:

Laurie Lamson, Department of Labor and Industry, stated the bill simplifies the language to get back to the basic intent originally in the New Horizon Program. The bill provides child care assistance to persons enrolled in Displaced Homemakers Programs. The bill is coordinated with SB 70 and the Family Support Act. The bill provides procedures to insure the bill is phased out when SB 70 becomes effective.

Nancy Lien Griffin, Montana Women's Lobby, stated the organization supports legislation which allows women to gain opportunity for quality employment. Current Department of Labor data shows Montana women earn \$.51 for every \$1.00 men earn. The organization supports training programs which helps ease child care costs.

Virginia Jellison, Montana Low Income Coalition, stood in support of SB 159.

Chris Deveny, League of Women Voters of Montana, stood in favor of SB 159.

List of Testifying Opponents and What Group They Represent:

There were no Opponents.

Testimony:

There was no testimony.

Questions From the Committee Members:

There were no questions from the committee.

Closing by Sponsor:

Senator Blaylock urged support of SB 159.

HEARING ON SENATE BILL 156

Presentation and Opening Statement by Sponsor:

Senator Michael Halligan, Senate District 29, sponsor of the bill, stated the bill is a repealer of the bill which requires the Commissioner of Labor and Industry to compile and preserve reports made by county superintendents of schools. The reports identify information regarding the name, age, date of birth, sex, and the names of the parents

or guardians of each child under 16 years of age, who is or may become a resident of the state.

List of Testifying Proponents and What Group They Represent:

Bob Jensen, representing the Department of Labor Employment Relations.

Testimony:

Bob Jensen, Department of Labor Employment Relations, Administrator, handed the committee a recent audit exception report compiled by the legislative auditor regarding SB 156. (Exhibit 1) The department compiles information submitted to the department by the county superintendents. The county superintendents do not have the authority to compile said information. Compiling the information is costly, and no one knows what to do with the information after it is compiled. Consequently, the Legislative Auditor recommends the department seek a repealer of statute.

Questions from the Committee Members:

There were no questions from the committee members.

Closing by the Sponsor:

Senator Halligan urged the committee to accept SB 156.

HEARING ON SENATE BILL 160

Presentation and Opening Statement by Sponsor:

Senator Blaylock, Senate District 43, sponsor of the bill, stated the bill revises and clarifies the unemployment insurance laws, revising the exclusions from the employment definition relating to agricultural Labor and Domestic Service; defining taxable wage base; revising the amount of weekly unemployment compensation benefits payable to a claimant if he receives periodic payments from certain other sources, removing disqualification for benefits due to a claimant if he receives periodic payments from certain other sources; removing disqualification for benefits due to a claimant's benefits due to a claimant's receipt of separation or termination allowance; and placing a time limit for the redetermination of a claim for benefits.

Senator Blaylock stated the most important part of the bill is on page thirteen and fourteen which includes part of the agricultural labor information concerning the unemployment compensation laws. This concerns people involved in farming, ranching, and in the outfitting business. If the

individual meets two of the tests, they are excluded from coverage under the unemployment compensation.

List of Testifying Proponents and What Group They Represent:

Chuck Connor, representing the Labor Employment Insurance Division.

Testimony:

Chuck Connor, Department of Labor Employment Insurance Administrator, stated under current law, most agricultural employment is excluded from the unemployment insurance law. However, when an agricultural employer has other kinds of employment at his place of business, he sometimes picks up the agricultural employment as a result of the other business, particularly if it is a sole proprietor operation. The books from the two operations, the ag business and the other type of business, are itemized in the same check book. The provision makes it clear the individual maintains a separate set of records for the second business. Mr. Connor stated the domestic service is in the same kind of situation. Currently, domestic service is excluded, if the amount is under \$1,000. Under the proposed provision, amounts over \$1,000 are excluded, if the records are kept separately.

List of Testifying Opponents and What Group They Represent:

There were no testifying opponents.

Testimony:

There was no testimony.

Questions From Committee Members:

Senator Blaylock asked for an explanation concerning the fiscal note difference of \$156,000. Mr. Hunter stated the fiscal note relates to a section on page 18, which deals with reductions and benefits allowance when the recipient is receiving a pension. Under the old federal tax laws, whenever a claimant received a pension, the individual was required by law to deduct a certain amount for benefits. The federal law was changed to say: If the claimant contributes part of the pension, the claimant no longer needs to make a deduction. SB 160 conforms Montana Law with Federal Law. Since provision benefit amounts can not be reduced under the pension formula, the \$156,000 is the amount of how much more money would be spent in benefit payments as a result of the change.

Senator Keating stated the bill was written at the request of the department and deals with the exclusion. Senator Keating asked why the department wanted the bill written. Mr. Hunter replied the decision was made by the department. Due to the recent tight economy, the department has witnessed small employers expanding to other small businesses on their property to make end meet. Small operations come under the UI tax law. The department believes, after talking to the federal tax people, it is not the intent of the law to cover the small agricultural employers. Senator Keating asked if the change on page 18, regarding the contributions for retirement, is related to other add-on business. Mr. Hunter replied no.

Senator Aklestad asked if the additional cost will come out of the unemployment trust fund. Mr. Hunter replied yes.

Closing by Sponsor:

Senator Blaylock urged the committee to pass SB 160.

EXECUTIVE ACTION

DISPOSITION OF SENATE BILL 159

Discussion:

Senator Blaylock asked to submit an amendment for SB 159.

Laurie Lamson, Department of Labor explained the SB 159 amendment at Senator Blaylock's request. Ms Lamson stated the intent is to clear errors made in the drafting process. The first inserts "AND A TERMINATION DATE" on line 12. The second inserts the word "at" and strikes the word "every" on Page 4, line 21. The sections provides for a follow-up program that the person is "followed-up" by a person that has been assured. Currently, the individual was "followed-up" until death. The third part will insert a termination date which coincides with SB 70.

Amendments and Votes:

Senator Blaylock moved SB 159's amendment. The amendment received a **DO PASS** recommendation.

Tom Gomez stated the Speaker of the House, John Vincent, is carrying a bill, which is currently in the House Human Services and Aging Committee. The Vincent bill provides for child care assistance, the same as the Horizon Act. There is a provision for a repeal of the Horizon Act. Regardless of any legislation extending the New Horizon's Act, child care assistance must be provided to a AFDC recipient through

SRS under the new federal reform act. SB 70 has a specific provision providing for the child care assistance. Altogether, it is advisable to co-ordinate the bill with other pending legislation. The need for the draft change is for the eligibility provisions of the New Horizon Act, which is rather restrictive and hinders the program's operation.

DISPOSITION OF SENATE BILL 93

Discussion:

There are two difference sets of amendments. Senator McLane's amendment is to limit the application of vouchers to new recipient who are employable. The bill clearly indicates the GA requirement for GA voucher payment will not apply to persons seeking disability payments.

Lee Tickell stated the department is in agreement with the amendment. The amendment was drafted at the request of the department.

Amendments and Votes;

Senator Lynch moved the department's amendment. Tom Gomez explained the amendment.

Senator Aklestad asked if the vouchers are used exclusively for GA, and are not used for Food Stamps. Tickell stated the Food Stamps are a voucher system.

Amendments and Votes:

Senator Lynch moved to amend SB 93 with the amendment submitted by the Department of Social and Rehabilitation Services. The motion PASSED unanimously.

Senator Lynch moved to amend SB 93 with the amendment submitted by Senator McLane. Tom Gomez stated county welfare directors argued the legislature may not want to increase the county welfare office work burden, therefore, the bill should be rewritten to limit voucher requirements used for first month vander payments to only new employable recipients. The action will cut the case load by 26%. The fiscal note is in question due to the fact there is no federal funding for General Assistance. The fiscal note is written on the assumption the voucher application for unduplicated persons is the entire case load served per year.

Senator Keating stated the fiscal note shows 3 FTE, and asked if the General Fund's biennium is increased by \$50,000. No.

Senator Aklestad stated the fiscal note will be changed regarding the General Fund. The benefit will be a savings of \$44,000, depending on the General Fund savings due to the amendment just approved. The information is not available, but the General Fund administrative cost savings would be viable. Tickell described the domino effect of voucher generation and stated the fiscal note is incorrect. The figures are not based on data submitted by the department. The department submitted six half-time accounting clerks. Additional forms are issued. In addition to the form issued for check distribution, up to five additional forms are generated per client per month. The vouchers may go to the land lord, the gas station, or to a variety of stores for none food items. From the legislative audit accountability standpoint, the funds require additional forms. The forms must be completed before the checks issued. The funds are local in a local bank account, and paid for with a first checking account, which is a check in the county written at the local level on a revolving fund. Reconciliation must be arrived from checks and vouchers, then the payment is made. Tickell stated the state administrative work is duplicated at the local level, causing impact on the fiscal bureau. The daily entry section and the auditing cost are also impacted. The work load cannot be easily assimilated due to the heavy volume of paper work. Senator Keating stated the vouchers make sure the clients are spending money on the necessity of life. There is no increase in money. The voucher is another way of telling the client how to spend the money. Tickell stated the intent of the bill is to insure the transients are only given a restrictive payment voucher through the process described in the bill. The money cannot not be used for cigarette, pet food, or alcohol.

Senator Keating asked if the bill deals only with transients. Tickell stated the bill concerns everybody who is not "under the language", presumably disabled or applying for benefits. Senator Keating asked how much money per person would it cost to implement the program. Tickell stated there are 1,800 to 2,000 recipients per month at \$212.00 per month. The General Assistance is \$5.5 to \$6 million per year.

Senator Lynch stated vouchers only create a larger blizzard of paper work. Senator Lynch moved that SENATE BILL 93 DO NOT PASS.

Senator Devlin moved a substitute motion to TABLE SB 93. The motion PASSED unanimously.

DISPOSITION OF SENATE BILL 67

Senator Manning moved to amend SB 67.

Senator Aklestad requested Lee Tickell discuss the amendment. Tickell stated the department prefers the latitude to change the first word "shall" to "may". One of the provisions of the federal welfare reform act states for the first six months of extended medicaid, the department can choose to buy the employer insurance program for the client going to work, or the department can continue the client's coverage under Medicaid. Under current language, it is mandatory the department provides health insurance through private employers. The intent of the department, when possible or feasible, will be to act under the "may" claim. The choice of words is a complex administrative issue. The Department compares 400-500 difference insurance policies to Medicaid, making sure the private insurance policy covers the same services: a Medicaid Wrap-a-round policy. The procedure is complex. Each insurance policy must be supplemented to insure the same coverage as Medicaid.

Senator Keating stated he favored giving the department the latitude to do the job, but questioned the wordage asking if the changes would cause federal sanctions. Tickell stated the first "shall" provision is the part that mandates the department to buy insurance coverage from the employer. There is an option, but the language, in question, would mandate the purchase procedure.

Recommendation and Vote

The committee unanimously voted DO PASS AS AMENDED on SB 67.

DISPOSITION OF SENATE BILL 99

Recommendation and Vote:

Senator Tom Keating moved a DO PASS on SB 99.

Senator Blaylock questioned line fifteen, page two. Senator Blaylock asked to strike "six" and enter "three". Senator Aklestad stated the AFDC program currently has a three month waiting period. The amendment will pattern the law after the federal law. Senator Aklestad stated the general public is demanding monies be given to the truly needy.

A Roll Call Vote was taken to amend SB 99. Senators Keating, Hofman, Devlin, Nathe, and Aklestad voted NO. Senators Lynch, Pipinich, Manning, and Blaylock voted YES. The motion failed.

Senator Keating moved that SB 99 DO PASS. A Roll Call Vote was taken. Senators Keating, Hofman, Devlin, Nathe, and Aklestad voted YES. Senators Lynch, Pipinich, Manning, and Blaylock voted NO. The motion was given a DO PASS recommendation.

DISPOSITION OF SENATE BILL 100

Amendments and Votes:

Senator Lynch made a motion to strike lines 18, 19, and 20 on page 2. Senator Lynch stated the interpretation is too general. Senator Devlin asked Senator Lynch for more acceptable phrasing. Accepted standards of what the employee expects is questioned. At least, let the employee know what the employer expects. Senator Blaylock stated an individual can be fired within the teaching profession if the individual refuses to obey. Perhaps similar language can be used. Senator Manning agreed. Senator Aklestad stated there are statutes to protect the employee. It would be possible to write legislation to force the employer and employee into discussions before the firing is finalized. Tickell stated the language is the same as the Department of Labor's language. Senator Aklestad stated the interim proposal is to take the language out on page 1, line 17, item number 2 to the rest of page 1 and Page 2, line 11, item 2. Mr. Hunter stated the language was taken from UI rules: administrative rules rather than statute. Senator Nathe asked what was the UI rule. Hunter replied the UI rule is the Unemployment Insurance rule, which clearly defines misconduct. Senator Keating asked Hunter if employers use the rule, or do the employers act unfairly when getting rid of their employees. Hunter replied the state would not know if employers used the rule, but the department uses the rule in determining misconduct.

Senator Keating stated the standards of behavior, being discussed, is connected within the work place and on the job. The standard is not off-duty-standards. Senator Nathe asked why the standards were put into the rule, asking if the reason was to establish a dress and cleanliness standard. Hunter replied the standards would be different depending on the place of business.

Senator Lynch stated the amendment would strike the language on page 2, line 18, 19, and 20. Senator Lynch, again moved to accept the amendment to SB 100. A Roll Call Vote was taken. Senators Keating, Hofman, Devlin, Nathe and Aklestad voted No. Senators Lynch, Pipinich, Manning and Blaylock voted YES. The motion FAILED.

Senator Aklestad stated, in some cases, a striker on unemployment insurance is not eligible for unemployment compensation when on strike. SB 100 currently allows the striker to be eligible for GA when on strike. The current law does not align with the unemployment trust fund.

Senator Keating asked Tickell if a person draws GA, does the person have to be willing to work. Tickell stated the employable individual has to make themselves available for work under current statute. Senator Keating asked if the individual must wait a month to see if a job can be found before GA is drawn, or does the person draw some GA before going to work. Tickell stated the individual must make themselves available for work, and if the person is employable and able bodied, they must go through Project Work and put in forty hours a week in the program. Senator Keating stated he believed the same thing applied to strikers. If a striker leaves the striking position, applies for GA, and goes to work in order to get GA, he is jeopardizing the strike position: a "Catch 22 position." Tom Gomez stated a striker is ineligible for unemployment insurance, according to the 1985 law. The striker is not eligible for AFDC and Food Stamps, but is eligible for GA. The person must register with the Job Service and accept any suitable employment under current statute.

Recommendation and Vote:

Senator Keating moved a DO PASS consideration of SB 100. Senate Bill 100 passed with five votes YES and four votes NO. Senator Lynch asked to be recorded as a NO vote. SB 100 received a DO PASS recommendation.

DISPOSITION OF SENATE BILL 159

Recommendation and Votes:

Senator Blaylock moved SB 159 DO PASS AS AMENDED. SB 159 passed unanimously.

DISPOSITION OF SENATE BILL 160

Recommendation and Votes:

Senator Nathe moved that SB 160 DO PASS. The bill passed unanimously.

ADJOURNMENT

SENATE COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS

January 26, 1989

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Adjournment At: The meeting adjourned at 2:42 P. M.



Senator Gary C. Aklestad, Chairman

GCA/mfe

minutes.126

ROLL CALL

LABOR COMMITTEE

51st LEGISLATIVE SESSION

DATE: *January 26, 1989*

	PRESENT	ABSENT	EXCUSED
SENATOR TOM KEATING	X		
SENATOR SAM HOFMAN	X		
SENATOR J.D. LYNCH	X		
SENATOR GERRY DEVLIN	X		
SENATOR BOB PIPINICH	X		
SENATOR DENNIS NATHE	X		
SENATOR RICHARD MANNING	X		
SENATOR CHET BLAYLOCK	X		
SENATOR GARY AKLESTAD	X		

SENATE STANDING COMMITTEE REPORT

January 27, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration SB 156 (first reading copy -- white), respectfully report that SB 156 do pass.

DO PASS

Signed: _____
Gary C. Aklestad, Chairman

SENATE STANDING COMMITTEE REPORT

January 27, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration SB 160 (first reading copy -- white), respectfully report that SB 160 do pass.

DO PASS

Signed: _____
Gary C. Aklestad, Chairman

*J.C.
1/27/89
10:45
a.*

SENATE STANDING COMMITTEE REPORT

January 26, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration SB 67 (first reading copy -- white), respectfully report that SB 67 be amended and as so amended do pass:

1. Title, line 7.

Following: "DUE TO"

Insert: "INCREASED HOURS OR INCOME FROM"

Following: "EMPLOYMENT"

Insert: "OR BECAUSE OF LOSS OF EARNED INCOME DISREGARDS"

2. Page 1, line 13.

Following: "(1)"

Strike: "The"

Insert: "In accordance with section 1925 of Title XIX of the Social Security Act [42 U.S.C. 1396r-6], the"

3. Page 1, line 17.

Following: "to"

Insert: ": (a) increased hours or income from"

4. Page 1, lines 17 through 18.

Following: "employment" on line 17

Strike: remainder of line 17 through "[42 U.S.C. 1396r-6]"

Insert: "; or

(b) loss of federally prescribed earned income disregards"

5. Page 1, line 21.

Following: line 20

Strike: "shall"

Insert: "may"

AND AS AMENDED DO PASS

Signed: _____
Gary C. Aklestad, Chairman

H.C.
11/27/89
10:45

SENATE STANDING COMMITTEE REPORT

January 27, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration SB 99 (first reading copy -- white), respectfully report that SB 99 do pass.

DO PASS

Signed: _____
Gary C. Aklestad, Chairman

Y.C.
1/27/89
10:45
a.m.

SENATE STANDING COMMITTEE REPORT

January 28, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration SB 100 (first reading copy -- white), respectfully report that SB 100 be amended and as so amended do pass:

1. Page 2, line 17.
Strike: ":"
2. Page 2, lines 18 through 20.
Strike: subsection (i) in its entirety
3. Page 2, line 21
Strike: "(ii)"

AND AS AMENDED DO PASS

Signed: 
Gary C. Aklestad, Chairman

SB
11:35 a.m.

1/28

SENATE STANDING COMMITTEE REPORT

January 28, 1989

MR. PRESIDENT:

We, your committee on Labor and Employment Relations, having had under consideration SB 159 (first reading copy -- white), respectfully report that SB 159 be amended and as so amended do pass:

1. Title, line 12.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

2. Page 3, line 20.

Strike: "are receiving AFDC and"

3. Page 4, line 21.

Strike: "every"

Insert: "at"

4. Page 5.

Following: line 7

Insert: "Section 7. Termination. [This act] terminates July 1, 1990."

AND AS AMENDED DO PASS

Signed: _____
Gary C. Aklestad, Chairman

SB
11:35 am.
HAC

1 School Census Report

2 The Commissioner of Labor does not compile a list of children under 16 years
3 of age with the names of parents or guardians as required by section 41-2-112, MCA.
4 The law specifies that the County Superintendent of Schools in each county should
5 have a census of children to provide the commissioner. Department management said
6 that the department had relied on the Office of Public Instruction (OPI) for such
7 information until OPI changed the method of documenting school population 15 years
8 ago. Department personnel were not aware of the specific legal requirement for the
9 census and know of no specific use for the data. In a discussion with one County
10 Superintendent, we learned that neither the county nor the school districts compile
11 the information. The superintendent indicated that compilation of the additional
12 information would be costly. Since the law was enacted in 1907, no one has compiled
13 or used the required information in 15 years, and the department knows of no
14 specific use for the data, the department should seek legislation to repeal the
15 requirement for compiling census reports.

16 RECOMMENDATION #23

17 WE RECOMMEND THE DEPARTMENT SEEK LEGISLATION TO
18 REPEAL THE REQUIREMENT FOR COMPILING CENSUS REPORTS.

19 Advanced Rate Assessments

20 Section 39-71-2305, MCA, requires DWC to assess a 50 percent rate increase
21 (advanced rate) to employers whose workplace is considered "unduly dangerous." The
22 advanced rate assessment is to be made if the workplace is unduly dangerous in
23 comparison with other like workplaces and the employer has not implemented the
24 safety provisions of the Montana Safety Act.

25 We found in our current and previous two audits that the advanced rate never
26 assessed. Division personnel at that time stated that no administrative rules existed
27 to provide criteria for determining whether a workplace was more dangerous than
28 similar workplaces. The division concurred with our recommendation to formulate
29 rules. We found during the current audit that the department has not adopted written
30 criteria for designating a workplace as "unduly dangerous."

31 DWC has implemented an incentive program for employers with a high exper-
32 ience loss ratio compared to like employees. DWC provides these employers with a
33 Basic Loss Control Manual. Employers that implement procedures in the manual

ROLL CALL VOTE

LABOR COMMITTEE

51st LEGISLATIVE SESSION

#1

DATE: Jan 26, 1989 BILL NO: SB 99 TIME: _____

Amend. SB 99 - Blaylock

VOTE:	YES	NO
SENATOR TOM KEATING		X
SENATOR SAM HOFMAN		X
SENATOR J.D. LYNCH	X	
SENATOR GERRY DEVLIN		X
SENATOR BOB PIPINICH	X	
SENATOR DENNIS NATHE		X
SENATOR RICHARD MANNING	X	
SENATOR CHET BLAYLOCK	X	
SENATOR GARY AKLESTAD		X

John Laid

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ROLL CALL VOTE

LABOR COMMITTEE

51st LEGISLATIVE SESSION

DATE: January 26, 1989 BILL NO: SB 99 TIME: #2
DO PASS

VOTE:	YES	NO
SENATOR TOM KEATING		X
SENATOR SAM HOFMAN		X
SENATOR J.D. LYNCH	X	
SENATOR GERRY DEVLIN		X
SENATOR BOB PIPINICH	X	
SENATOR DENNIS NATHE		X
SENATOR RICHARD MANNING	X	
SENATOR CHET BLAYLOCK	X	
SENATOR GARY AKLESTAD		X

Motion Sailed

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ROLL CALL VOTE

LABOR COMMITTEE

51st LEGISLATIVE SESSION

#1

DATE: 1-26-89 BILL NO: SB100 TIME: _____

Lynch Amendment

VOTE:	YES	NO
SENATOR TOM KEATING		X
SENATOR SAM HOFMAN		+
SENATOR J.D. LYNCH	X	
SENATOR GERRY DEVLIN		+
SENATOR BOB PIPINICH	X	
SENATOR DENNIS NATHE		X
SENATOR RICHARD MANNING	X	
SENATOR CHET BLAYLOCK	X	
SENATOR GARY AKLESTAD		+

Motion Failed

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