



Legislative Council

63rd Montana Legislature

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SUSAN FOX, Executive Director
TODD EVERTS, Legal Division Director
FONG HOM, Secretary

MINUTES LOG

Legislator Electronic Communications Subcommittee

April 4, 2014

Room 152, Capitol Building

Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

SUBCOMMITTEE MEMBERS PRESENT

SEN. CLIFF LARSEN
SEN. DEBBY BARRETT (by phone)

REP. MARK BLASDEL
REP. CHUCK HUNTER

STAFF PRESENT

TODD EVERTS, Legal Director
FONG HOM, Committee Secretary

AGENDA AND VISITORS' LIST

Agenda (**Attachment 1**)
Visitors' list (**Attachment 2**)

COMMITTEE ACTION

None

CALL TO ORDER AND ROLL CALL

00:06:25 Rep. Hunter called the meeting to order at 8:06 a.m. The secretary called roll.
(Attachment 3)

00:07:23 By acclimation, Rep. Hunter will serve as chair of the subcommittee.

PURPOSE OF SUBCOMMITTEE - Todd Everts

00:07:53 Mr. Everts gave a brief summary of the purpose of the subcommittee.

UPDATE ON LEGISLATOR 2014-15 EMAIL PILOT PROJECT - Darrin McLean

00:10:33 Mr. McLean gave an update on the email pilot project for legislators.

Committee questions

00:13:22 Rep. Hunter asked about calendaring and if any of the email systems that Mr. McLean mentioned would allow for the use of calendaring that would sync up with the email.

00:13:46 Mr. McLean said that all would have a common calendaring system.

00:14:26 Sen. Larsen asked if the subcommittee is here to discuss the issues of privacy and separating legitimate legislative work from personal business enterprises.

00:15:25 Mr. Everts said that if the subcommittee pursues the route of a designated email for legislative/state business, it would be a good thing to compartmentalize that, not only from a records management perspective, but to insulate private matters, including political matters, that aren't legislative matters. Mr. Everts also suggested that that type of form of electronic communication in certain situations deserves discussion by the subcommittee in terms of best practices going forward.

00:20:04 Rep. Hunter said that based on the discussion last meeting and some of the written materials, there seems to be a strong bias from Mr. Everts and from the institutional perspective to have a single system, to have everybody have a common email, certainly for the record keeping portions alone. Rep. Hunter said that he is not sure that he is ready to make that leap. He would like more information and then circle back to build an agenda of the decisions that we want to make and topics that we want to take up.

UPDATE ON HJR 2 ELECTRONIC RECORDS MANAGEMENT STUDY - Pad McCracken

00:20:52 Mr. McCracken gave an update on the HJR 2 Study.

LEGISLATOR AND LEGISLATIVE STAFF ELECTRONIC COMMUNICATIONS TRAINING - Todd Everts

00:28:47 Mr. Everts distributed and explained the draft agenda for staff training. **(Exhibit 1)**

COMMITTEE DISCUSSION AND DIRECTION TO STAFF

00:30:56 Rep. Hunter asked if there are more topics that the subcommittee would like to

consider?

- 00:31:20 Sen. Larsen asked if the subcommittee is to choose one of the three recommended modalities and then compel each legislator to participate with an account on that choice?
- 00:31:56 Rep. Hunter said that it is his view that we first have to decide that we even want to have a common email address for all legislators, which we currently do not have.
- 00:32:11 Mr. Everts said that the recommendation that the Legislative Council will be looking for is a decision on whether to proceed on gathering costs and other information on uniform email addresses, not whether to actually say yes we want them, or no that we don't.
- 00:32:37 Rep. Blasdel asked if there is a difference in costs in those three proposals and if there are benefits to each one?
- 00:33:04 Mr. McLean said that they are all close in price. He said he doesn't have specific costs for each one, but Google's cost for 150 legislators is around \$30,000 or \$35,000 a biennium. There are advantages and disadvantages for each one, and if we move forward with a common address, they can break those out and show advantages and disadvantages for each one.
- 00:33:40 Rep. Blasdel said that if we went down this route and if you can link your email to a uniform account such as Outlook, and every legislator had an mt.gov address on the website, so that when citizens wanted to contact their legislator, it is a pass through to Outlook and legislators won't have to go to 2 or 3 different email accounts, they could go directly to Outlook and everything runs through that.
- 00:34:51 Rep. Hunter said that his question is the complexities of trying to sort out the records that one keeps on their computer, which would be public records and which would not. So, if you have a pass through and everything comes into a common account, then you are back to the issue of having to sort your private pieces from your public pieces. One of the benefits he sees of having a common email address is just to leave everything that is public business there.
- 00:35:39 Mr. McLean said that is something that they will have to look at as they move forward.
- 00:36:27 Rep. Hunter asked Mr. McLean to do a costing, do pros and cons of each of those systems, and to include some analysis that speaks to the kind of record keeping and sorting, and comment about how legislators might be able to segregate what choices they might have in terms of separating accounts or blending accounts.
- 00:37:18 Sen. Larsen said that if we have a number of accounts, but one separate for the public, sometimes you end up doing some business on your personal account because it comes in that direction to you. We don't have the privacy protection in

the law that keeps that private. That gets to the outline today, what records are public records. How do we make that distinction about something being purely legislative when it has political overtones.

- 00:38:49 Mr. Everts said that in terms of future discussions with the subcommittee, that is an avenue that we have to take: what is public business. The purpose of a uniform account is to not only adhere to the public record retention requirements but also to protect your privacy as a legislator.
- 00:41:21 Sen. Barrett commented (via phone) on Mr. Evert's information that was provided to the subcommittee. She said that it looks to her that each legislator could set up an email account for interim committees for work during the interim, and then a session email account for the session for our work with standing committees.
- 00:42:52 Mr. Everts said that taking a look at what constitutes legislative business and defining that would be a good productive avenue for this subcommittee to pursue and then provide recommendation to the full committee and incorporate that both in Rule and in the Administrative Manual that we operate under. Outline specifically what records are private, what records are open.
- 00:44:12 Rep. Hunter said we should to ask Mr. Everts to put together a legal analysis on what is public business, clarify the term "act", and separate political activity from legislative activity.
- 00:45:29 Rep. Hunter discussed texting, tweets, and the use of electronic devices during both floor sessions and committee hearings.
- 00:46:02 Sen. Larsen said that a lot of information is shared through the usage of Facebook, tweeting, texting. and email messaging. We can't avoid that in the future. If somebody makes a legal challenge to get information, they don't just say "by email", they say "by electronic media".
- 00:46:48 Rep. Hunter summarized the subcommittee's action items: Mr. McLean will report his research on the costs for the various systems, pros and cons, provide some management advice on the benefits and how we might use those tools; Mr. Everts will do a legal analysis on terms that will shed light on some of the choices we have to make; and a discussion on the rules related to committee and floor activities and the use of those media will be posted as an agenda item for the next meeting.

ADJOURNMENT

- 00:47:44 Rep. Hunter adjourned the meeting at 8:47 a.m.

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