

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board March 26, 2025

HANSEN: I-- well, we'll get started here. So-- again, right now, we're just basically having a, a meeting to discuss certain items on the agenda that's in front of you. I think what the first thing we want to discuss is appointing members to the Committee on Pacific Conflict. So we're, we're doing a switch here between Senator Sanders and Senator Andersen. This is both preapproved by both senators. They both have letters that are in front of you notifying resignation and also request to be appointed to the committee. And I was going to leave that open for discussion to see what the board thought about that if there-- oh. Senator Andersen was on as a civilian. Yes. OK. But he's taking Senator Sanders' spot. Yes, Senator Bostar.

BOSTAR: Thank you, Chair Hansen. Yes. So Senator Andersen-- now-Senator Andersen was on the committee as a gubernatorial appointee on the executive side. The committee allows for four members of the Legislature to be appointed by the Exec Board. He didn't have one of those seats. He had the other seat. And then when he was elected to the Legislature, he had to vacate his position on the committee because he couldn't hold an executive, state-appointed role while being a state senator. So that is why he was then removed. I would start with a motion to reject the resignation of Senator Sanders. I think she's been a valuable member of the committee, and I think we should encourage her to stay on.

HANSEN: OK.

BOSTAR: OK.

HANSEN: And the purpose of that is what?

BOSTAR: I've just appreciated her work on the committee. That's all. And if there's no second to the motion, that is perfectly fine and we'll move on.

HANSEN: OK. Is there a second? I see none.

BOSTAR: Then I would move to appoint Senator Andersen to Pacific Conflict Committee, recognizing the resignation of Senator Sanders.

HANSEN: OK.

DORN: Second.

HANSEN: There has been a motion and a second accepting the resignation of Senator Sanders. And then, then--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board March 26, 2025

BOSTAR: Which we don't actually need a motion to accept her resignation.

HANSEN: OK. All right. But a motion to accept-- to-- the request for Senator Andersen to be on the committee, though. OK. So there's been a motion and second. Is there any further discussion? All right. Seeing none. Roll call.

NATALIE SCHUNK: Senator Ibach.

IBACH: Yes.

NATALIE SCHUNK: Senator Ballard.

BALLARD: Yes.

NATALIE SCHUNK: Senator Bostar.

BOSTAR: Yes

NATALIE SCHUNK: Senator Dorn.

DORN: Yes.

NATALIE SCHUNK: Senator Fredrickson.

FREDRICKSON: Yes.

NATALIE SCHUNK: Senator Jacobson.

JACOBSON: Yes.

NATALIE SCHUNK: Senator McKinney.

McKINNEY: No.

NATALIE SCHUNK: Senator Hansen.

HANSEN: Yes.

NATALIE SCHUNK: Motion carries.

HANSEN: All right. And guys, if you want to discuss the Easter leave.

BENSON WALLACE: Yeah. So Easter's coming up April 20 and it's typical of this-- the Executive Board to allow for administrative leave on the Friday before-- Monday after-- Friday the 18th, Monday the 21st. And I passed out a little-- I had a spreadsheet of what we've done since, I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board March 26, 2025

guess, [INAUDIBLE]. [INAUDIBLE] gives them two days ever since, what is-- 2011. It was only one day. But it's typical of the, the Exec Board to allow for administrative leave the Friday before and the Monday [INAUDIBLE] Easter. And they are recess days.

HANSEN: Senator Bostar.

BOSTAR: Is-- thank you, Chair. Is this something that we are taking act-- is, is this a vote or is this--

HANSEN: I thought it was, yes, from my understand--

BOSTAR: OK. I just didn't--

HANSEN: We have to accept it, I guess. Or--

BOSTAR: Then I--

HANSEN: If we decide to do it.

BOSTAR: I would move to allow for the two days as consistent with previous, recent, past practices.

FREDRICKSON: Second.

HANSEN: Got a motion and a second. Senator Jacobson.

JACOBSON: To be clear then, that is a recess day that they'd be taking off. So it's not like we won't have our staff here on that holiday and we're in session.

BENSON WALLACE: Right. So the 18th and the 21st are both recess days. If someone is required to work, they'd get comp time. Kind of like we did on President Carter.

HANSEN: Yes. Yep. Funeral.

JACOBSON: Thank you.

HANSEN: All right. Any further discussion?

DORN: Just--

HANSEN: Senator Dorn.

DORN: --clarification. This is the Friday and the Monday.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board March 26, 2025

BENSON WALLACE: Yep.

DORN: OK.

HANSEN: OK. Roll call.

NATALIE SCHUNK: Senator Ballard.

BALLARD: Yes.

NATALIE SCHUNK: Senator Bostar.

BOSTAR: Yes.

NATALIE SCHUNK: Senator Dorn.

DORN: Yes.

NATALIE SCHUNK: Senator Fredrickson.

FREDRICKSON: Yes.

NATALIE SCHUNK: Senator Jacobson.

JACOBSON: Yes.

NATALIE SCHUNK: Senator McKinney.

McKINNEY: Yes.

NATALIE SCHUNK: Senator Ibach.

IBACH: Yes.

NATALIE SCHUNK: Senator Hansen.

HANSEN: Yes.

NATALIE SCHUNK: Motion carries.

HANSEN: All right. Last thing on-- was something that we discussed before on our last get-together, was the idea that I would like-- I wanted to address that concern that a lot of us had when, when it came to the workplace harassment policy about the ability to access private devices. I was going to have Benson maybe discuss a little bit more about that and, and some of the language changes that we had.

BENSON WALLACE: Yeah. So the main issue-- well, there's two issues. I-- it's my opinion that it's bad policy to have policy you can't enforce. You know, going back to Thomas Aquinas, treason law states, like, you can't enforce a law, it manifests disrespect and apathy toward [INAUDIBLE]-- or policy in this case. And the second thing would be more on the victim side. You have something that's a blatant Fourth Amendment violation-- like, fruit of the poisonous tree doctrine. So if you have this and we have an investigator do this and say a Senator didn't realize that they didn't have to give it up and they do, if there's a subsequent criminal investigation [INAUDIBLE] a criminal defense attorney would file a motion to suppress on everything. I mean, like, that point forward. More or less impossible [INAUDIBLE]. That can lead to further liability on the Legislature for having policy that, even if we follow them, results in bad outcomes. And so what I did is I just literally took Fourth Amendment language where-- so [INAUDIBLE] search anything-- like your compu-- like your laptop, state laptop, state email. But if it's something where you have a reasonable expectation of privacy, like your cell phone or, I don't know, your car, like, an investigator couldn't go [INAUDIBLE]. Or they're not required to, I should say.

HANSEN: See if there's any discussion. Senator Bostar.

BOSTAR: Thank you, Chair. As we've talked about before, I think that this is the right change to make, especially considering that our current policy language was completely unenforceable. And agree with the committee counsel that generally having legally acceptable language in our policies is preferred. With that, I would move to accept and adopt the changes recommended.

DORN: Second.

HANSEN: OK. There's been a motion and a second. Any further discussion?

FREDRICKSON: I have a question, actually, just out of curiosity. So this, this is obviously for, like, internal policy for if we were to be doing an investigation on a senator, for example. In the event that there were reason to involve, like-- like if law enforcement or a more formal investigation did occur, obviously they would have different jurisdiction than we would have in terms of personal devices, et cetera. Would this prohibit us from-- should law enforcement want to share information they found with the Executive Board, for example, would this unintentionally prohibit us from access to those if it were obtained on the personal device?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board March 26, 2025

BENSON WALLACE: I, I, I don't think they would, would share it [INAUDIBLE] Exec Board if it's a criminal investigation. But this-- there's nothing here that would prohibit anyone except, like, the Legislative Council from-- like, this only has jurisdiction over them.

FREDRICKSON: Got it.

BENSON WALLACE: Over us.

FREDRICKSON: Yeah. So law enforcement and everything would be exe-- like, obviously we can't make a rule that would enforce that.

BENSON WALLACE: So if they wanted to share with us-- I mean, they still could.

FREDRICKSON: OK.

HANSEN: It's, it's a lot about unenforceable policy and also clarity to make sure what our rights are to investigate somebody if we need to but not hinder too much where we can't investigate them as well. Did the Clerk have any opinion on this at all? Just want to make sure.

BRANDON METZLER: [INAUDIBLE].

HANSEN: Yeah. Yeah. I had-- I just wanna-- I just wanna make sure we're not missing something. So if you have any opinion about anything.

BRANDON METZLER: Just one minor thing that I, I want to make sure you're thinking about. Brandon Me-- are, are we recording? B-r-a-n-d-o-n M-e-t-z-l-e-r. I, I understand the device thing. What I would caution you-- first of all, you have conflicting language in policy because your tech policy says that you have no reasonable expectation of privacy on not only state-owned devices but on the state network. So I, I just want to be very clear that there's a difference between the device you're using and the network you're using. Because if you are on your personal device using the CapSen state network, yeah, you may think that you are protected-- as in you are using your personal laptop, your personal cell phone-- but you are using state resources in that you are connecting to the internet. So in order to be truly untouchable by this policy, as well as the tech policy, you would need to be both on a private device and on a private network, whether that's a personal hotspot or, you know, your own cell service, that sort of a thing. But I, I think that's an important distinction that-- just keep that in mind, that once you carve out the devi-- you know. It needs to not just be devices. It needs to be you're totally personal with, you know, both the network and the device that it's on, so.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board March 26, 2025

HANSEN: Senator Bostar.

BOSTAR: Thank you, Chair. Thank you, Mr. Clerk. Considering that our change is just striking fundamentally personal or legislative equipment and leaving it open where we're not-- I don't think we're, we're saying in this rule that we wouldn't be able to access something that we are permitted to. Do you share that opinion?

BRANDON METZLER: I, I think so. I'm trying to follow the--

BOSTAR: Yeah.

BRANDON METZLER: Yeah.

BOSTAR: Just-- I-- it-- to me, it doesn't seem like we would be putting anything in the rule that would prohibit us from accessing something that we legally could.

BRANDON METZLER: Correct. Yeah. Yeah. All I'm saying is that, don't-- just because you have in this policy that there is a reasonable expectation of privacy, your device, if it's on the state network, may not be found to be the--

BOSTAR: To meet that.

BRANDON METZLER: Correct. Exactly. If you are using state resources to access the internet or access files, et cetera, that avenue may be considered to not have a reasonable expectation of privacy even though you do own the device itself.

HANSEN: OK.

BOSTAR: And that's in the-- our internet policy is--

BRANDON METZLER: Your technology policy talks about reasonable expectation of privacy and not having one if you're accessing state resources.

BOSTAR: Yeah.

HANSEN: OK.

BRANDON METZLER: And that's state statute as well.

HANSEN: All right. Thank you. Any other discussion? All right. There's been a motion and a second. So roll call.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board March 26, 2025

NATALIE SCHUNK: Senator Bostar.

BOSTAR: Yes.

NATALIE SCHUNK: Senator Dorn.

DORN: Yes.

NATALIE SCHUNK: Senator Fredrickson.

FREDRICKSON: Not voting.

NATALIE SCHUNK: Senator Jacobson.

JACOBSON: Yes.

NATALIE SCHUNK: Senator McKinney.

McKINNEY: Yeah.

NATALIE SCHUNK: Senator Ibach.

IBACH: Yes.

NATALIE SCHUNK: Senator Ballard.

BALLARD: Yes.

NATALIE SCHUNK: Senator Hansen.

HANSEN: Yes.

NATALIE SCHUNK: Motion carries.

HANSEN: OK. That's all I had for today, so. Thank you very much.