



March 15, 2022

**VIA EMAIL**

Senator Keith Regier  
1078 Stillwater Rd.  
Kalispell, MT 59901  
[Keith.regier@mtleg.gov](mailto:Keith.regier@mtleg.gov)

Senator Tom McGillvray  
3642 Donna Dr.  
Billings, MT 59102  
[Tom.mcgillvray@mtleg.gov](mailto:Tom.mcgillvray@mtleg.gov)

Senator Greg Hertz  
PO Box 1747  
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[Greg.hertz@mtleg.gov](mailto:Greg.hertz@mtleg.gov)

Representative Barry Usher  
600 S. Frontage Rd.  
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[Barry.usher@mtleg.gov](mailto:Barry.usher@mtleg.gov)

Susan Fox  
Legislative Executive Director  
Montana State Legislature  
State Capitol  
PO Box 201706  
Helena, MT 59620  
[sfox@mt.gov](mailto:sfox@mt.gov)

**Re: Public Records Act Request**

Dear Public Records Officer:

Pursuant to Art. II, Section 9, of the Montana Constitution, and the Montana Public Records Act, Mont. Code Ann. §§ 2-6-1001 *et seq.*, American Oversight makes the following request for records.

**Requested Records**

American Oversight requests that your office produce the following records in a timely manner:

1. All email communications (including emails, email attachments, complete email chains, and calendar invitations) sent by the officials specified below regarding containing the key terms specified below.

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited its request to emails sent by the specified custodians. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means, for example, that both a custodian's response to an email containing a key term and the initial received message are responsive to this request and should be produced.



2. All text messages (including complete text message threads or conversations) sent or received by the officials listed below and containing any of the following key terms:

To be clear, American Oversight requests that full text message threads/conversations be produced. For example, if a custodian sent or received a text message containing any of the key terms listed above, the complete thread/conversation for the 24 hours before and after the key term appears should be produced, and not just the message containing the key term.

For parts 1 and 2 of this request, please provide all responsive records from January 4, 2021, through the date the search is conducted.

#### Legislative Officials

1. Senator Keith Regier, or anyone communicating on Regier's behalf such as a Chief of Staff, schedule, or legislative assistant.
2. Senator Tom McGillvray, or anyone communicating on McGillvray's behalf such as a Chief of Staff, schedule, or legislative assistant.
3. Senator Greg Hertz, or anyone communicating on Hertz' behalf such as a Chief of Staff, schedule, or legislative assistant.
4. Representative Barry Usher, or anyone communicating on Usher's behalf such as a Chief of Staff, schedule, or legislative assistant.

#### Key Terms:

- a) "SB 140"
- b) SB140
- c) "Senate Bill 140"
- d) "Vacant seats"
- e) "Judiciary appointment"
- f) "Judicial appointment"
- g) "Judicial vacancy"
- h) "Judicial vacancies"
- i) "Nomination commission"
- j) "Nominating commission"
- k) "Judicial activism"
- l) "Judicial conduct"
- m) JNC
- n) McLaughlin
- o) "Court administrator"
- p) "Legislative subpoena"
- q) "Montana Judges Association"
- r) MJA
- s) Giles
- t) SCOTUS
- u) "Supreme Court"

Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fee.

### **Guidance Regarding the Search & Processing of Requested Records**

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages.
- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight to discuss this request. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will

accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

### **Conclusion**

American Oversight is a 501(c)(3) nonprofit with the mission to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.<sup>1</sup>

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not understand any part of this request, please contact Taylor Stoneman at [records@americanoversight.org](mailto:records@americanoversight.org) or (202) 848-1319.

Sincerely,

/s/ Taylor Stoneman  
Taylor Stoneman  
on behalf of  
American Oversight

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<sup>1</sup> American Oversight currently has approximately 15,700 page likes on Facebook and 117,900 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Mar. 14, 2022); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Mar. 14, 2022).