

## MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS

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Saint Paul, Minnesota 55101

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February 27, 2012

Minnesota Senate Republican Caucus  
161 St. Anthony Avenue, Suite 902  
St. Paul, MN 55103

Named Individual Senators and  
Steve Sviggum  
75 Rev. Dr. Martin Luther King Jr.  
Boulevard  
Capitol Building, Room 121  
St. Paul, MN 55155-1606

RE: Minnesota Democratic-Farmer-Labor Party v. Minnesota Senate  
Republican Caucus, Senator David Senjem, Senator Al DeKruif, Senator  
Chris Gerlach, Senator Joe Gimse, Senator Gretchen Hoffman, Senator  
Benjamin Kruse, Senator Ted Lillie, Senator Geoff Michel, Senator Carla  
Nelson, Senator Claire Robling, Senator Ray Vandever, Senator Pam  
Wolf, Senator Michelle Fischbach, Senator Doug Magnus, Senator John  
Pederson, and Steve Sviggum

OAH Docket No. 15-0320-22622-CV

Dear Minnesota Senate Republican Caucus, named Senators, and Mr. Sviggum:

The enclosed Amended Complaint was filed with the Office of Administrative Hearings on February 15, 2012. Due to an oversight, it was placed with the original complaint, filed February 14, 2012, and overlooked until February 24, 2012. The Amended Complaint adds four additional Respondents to the original complaint and attaches two additional exhibits. The Amended Complaint alleges that the Respondents violated Minn. Stat. §§ 211B.04 (disclaimer) and 211B.09 (prohibited public employee activities) of the Fair Campaign Practices Act in connection with a "Senate GOP Legislative Update" prepared for distribution at the Republican Precinct Caucuses on February 7, 2012.

The Chief Administrative Law Judge assigned this matter to the undersigned Administrative Law Judge on February 15, 2012. The ALJ is required to make a preliminary determination of whether the complaint constitutes a prima facie violation of chapter 211A or 211B within 1 to 3 business days. "Prima facie" means that the facts alleged are sufficient to show a violation. **You do not need to submit a response at**

**this point. A prima facie determination is enclosed, along with a Notice of and Order for Prehearing Conference.**

If the ALJ determines that a prima facie violation has not been shown, the Complaint will be dismissed. If a prima facie violation is demonstrated, the matter will be set for a hearing. **Only the paragraph marked with an "x" below applies to your case.**

This Complaint alleges a violation of Minn. Stat. § 211B.06, **or** includes a request for an expedited probable cause hearing. If the administrative law judge determines that the complaint establishes a prima facie case, the law requires that the probable cause hearing must be conducted within three business days of the judge's assignment to this matter, or up to seven days, for good cause shown. We will notify you of the date of the probable cause hearing, if one is required.

This Complaint alleges a violation of Minn. Stat. Chs. 211A or 211B. If the administrative law judge determines that the complaint establishes a prima facie case, you may request an expedited probable cause hearing, but you must do so immediately, within three business days. If you request an expedited probable cause hearing, it must be conducted within three business days of the request, or within seven days, for good cause shown. If no expedited probable cause hearing is required, the probable cause hearing will be scheduled within 30 days of the judge's assignment to this matter. We will notify you of the date of the probable cause hearing, if one is required.

This Complaint alleges a violation of Minn. Stat. Chs. 211A or 211B. It was not filed within 60 days *prior* to the primary or special election, or within 90 days *prior* to the general election to which the complaint pertains. If the administrative law judge determines that the complaint establishes a prima facie case, a prehearing conference and evidentiary hearing will be scheduled. (Under Minn. Stat. § 211B.33, subd. 2(d) no probable cause hearing is required.) We will notify you of the date of a prehearing conference, if one is required.

The complaint process is described in Minn. Stat. §§ 211B.32 – 37 (2012) which can be found on the OAH website at [www.oah.state.mn.us](http://www.oah.state.mn.us). Questions can be directed to one of our staff attorneys at 651-361-7837. The Office of Administrative Hearings fax number is 651-361-7936.

Sincerely,

  
BEVERLY JONES HEYDINGER  
Administrative Law Judge

Enclosures: complaint  
cc: MN DFL Party (letter only)

Service List for

*Re: Minnesota Democratic-Farmer-Labor Party v Minnesota Senate Republican Caucus, Senator David Senjem, Senator Al DeKruif, Senator Chris Gerlach, Senator Joe Gimse, Senator Gretchen Hoffman, Senator Benjamin Kruse, Senator Ted Lillie, Senator Geoff Michel, Senator Carla Nelson, Senator Claire Robling, Senator Ray Vandever, and Senator Pam Wolf*

OAH Docket No. 15-0320-22622-CV

MN Democratic-Farmer-Labor Party 225 East Plato Blvd St. Paul, MN 55107	MN Senate Republican Caucus 161 St. Anthony Avenue, Suite 902 St. Paul, MN 55103
Senator David Senjem 75 Rev. Dr. Martin Luther King Jr. Blvd. Capitol Building, Room 121 St. Paul, MN 55155-1606	Senator Al DeKruif 75 Rev. Dr. Martin Luther King Jr. Blvd. Capitol Building, Room G-24 St. Paul, MN 55155-1606
Senator Chris Gerlach 75 Rev. Dr. Martin Luther King Jr. Blvd. Capitol Building, Room 120 St. Paul, MN 55155-1606	Senator Joe Gimse 75 Rev. Dr. Martin Luther King Jr. Blvd. Capitol Building, Room 303 St. Paul, MN 55155-1606
Senator Gretchen Hoffman 75 Rev. Dr. Martin Luther King Jr. Blvd. Capitol Building, Room 124 St. Paul, MN 55155-1606	Senator Benjamin Kruse 75 Rev. Dr. Martin Luther King Jr. Blvd. Capitol Building, Room 124 St. Paul, MN 55155-1606
Senator Ted Lillie 75 Rev. Dr. Martin Luther King Jr. Blvd. Capitol Building, Room 124 St. Paul, MN 55155-1606	Senator Geoff Michel 75 Rev. Dr. Martin Luther King Jr. Blvd. Capitol Building, Room 208 St. Paul, MN 55155-1606
Senator Carla Nelson 75 Rev. Dr. Martin Luther King Jr. Blvd. Capitol Building, Room 111 St. Paul, MN 55155-1606	Senator Claire Robling 75 Rev. Dr. Martin Luther King Jr. Blvd. Capitol Building, Room 226 St. Paul, MN 55155-1606
Senator Ray Vandever 75 Rev. Dr. Martin Luther King Jr. Blvd. Capitol Building, Room 328 St. Paul, MN 55155-1606	Senator Pam Wolf 75 Rev. Dr. Martin Luther King Jr. Blvd. Capitol Building, Room 306 St. Paul, MN 55155-1606
Minnesota State Republican Caucus 161 St. Anthony Avenue, Suite 902 St. Paul, MN 55103	Reid LeBeau, II Jacobson Buffalo, P.C. 335 Atrium Office Building 1295 Bandana Boulevard St. Paul, MN 55108

Senator Michelle Fischbach 75 Rev. Dr. Martin Luther King Jr. Blvd. Capitol Building, Room 226 St. Paul, MN 55155-1606	Senator Doug Magnus 75 Rev. Dr. Martin Luther King Jr. Blvd. Capitol Building, Room 205 St. Paul, MN 55155-1606
Senator John Pederson 75 Rev. Dr. Martin Luther King Jr. Blvd. Capitol Building, Room G-24 St. Paul, MN 55155-1606	Steve Sviggum 75 Rev. Dr. Martin Luther King Jr. Blvd. Capitol Building, Room 121 St. Paul, MN 55155-1606
Charles Nauen and David Zoll Lockridge, Grindal and Nauen Suite 2200 100 Washington Avenue South Minneapolis, MN 55401-2159	

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

Minnesota Democratic Farmer Labor  
Party,  
Complainant,

vs.

**NOTICE OF AND ORDER  
FOR  
PREHEARING CONFERENCE**

Minnesota Senate Republican Caucus,  
Senator David Senjem, Senator Al  
DeKruif, Senator Chris Gerlach, Senator  
Joe Gimse, Senator Gretchen Hoffman,  
Senator Benjamin Kruse, Senator Ted  
Lillie, Senator Geoff Michel, Senator  
Carla Nelson, Senator Claire Robling,  
Senator Ray Vandever, Senator Pam  
Wolf, Senator Michelle Fischbach,  
Senator Doug Magnus, Senator John  
Pederson, and Steve Sviggum

Respondents.

**TO: The Parties.**

On February 14, 2012, the Minnesota Democratic-Farmer-Labor Party (DFL) filed a Campaign Complaint with the Office of Administrative Hearings alleging that the Minnesota Senate Republican Caucus and the above-named individuals violated Minnesota Statutes §§ 211B.04 and 211B.09 of the Fair Campaign Practices Act in connection with a "Senate GOP Legislative Update" prepared for distribution at the Republican Precinct Caucuses on February 7, 2012.

By Order dated February 17, 2012, it was determined that the Complaint set forth a *prima facie* violation of Minn. Stat. § 211B.04, but failed to set forth a *prima facie* violation of Minn. Stat. § 211B.09. The § 211B.09 claim was dismissed without prejudice.

On February 24, 2012, the Office of Administrative Hearings was made aware that the Complainant had filed an Amended Complaint on February 15, 2012, that added four additional Respondents and attached two additional exhibits.<sup>1</sup> The substance of the allegations remained substantially the same. Through an oversight on the part of the Office, the Amended Complaint was

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<sup>1</sup> Amended Complaint Ex. B (MPR News website article dated February 14, 2012) and Ex. D (Star Tribune article dated February 14, 2012).

overlooked and was not considered in the original Prima Facie Determination and Order.

By Order dated February 27, 2012, the Administrative Law Judge determined the Amended Complaint set forth a *prima facie* violation of Minn. Stat. § 211B.04, but failed to set forth a *prima facie* violations of Minn. Stat. § 211B.09. The § 211B.09 claim was dismissed without prejudice.

Based upon all of the files, records, and proceedings herein,

## ORDER

### IT IS ORDERED:

1. That this matter is scheduled for a prehearing conference to be held at the Office of Administrative Hearings on at **10:00 a.m. on Thursday, March 29, 2012.**
2. That the Respondents shall file a response to the Complaint by **Friday, March 16, 2012.**
3. That, should the Respondents wish to assert the privilege provided them under Minn. Stat. § 3.16, they shall notify the Administrative Law Judge in writing by **Friday, March 16, 2012.**

At the prehearing conference, preliminary matters will be addressed such as identifying the issues to be resolved, the number of potential witnesses and exhibits, the date for the evidentiary hearing, the date for filing exhibits and witness lists, and determining whether the matter may be disposed of without an evidentiary hearing.

### ADDITIONAL INFORMATION

The evidentiary hearing has been ordered pursuant to the authority granted to the Chief Administrative Law Judge by Minn. Stat. § 211B.35, subd. 1. The hearing will be conducted pursuant to Minn. Stat. §§ 211B.35 and 211B.36. Information about the evidentiary hearing and copies of governing state statutes and rules may be obtained online at [www.oah.state.mn.us](http://www.oah.state.mn.us) and at [www.revisor.leg.state.mn.us](http://www.revisor.leg.state.mn.us). The Office of Administrative Hearings conducts proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota Supreme Court.

### HEARING PROCEDURES

At the prehearing conference and evidentiary hearing, all parties have the right to be represented by legal counsel, by themselves, or by a person of their

choice if not otherwise prohibited as the unauthorized practice of law. If the matter proceeds to an evidentiary hearing, two additional judges will be appointed to the panel by the Chief Administrative Law Judge. The parties will have the right to submit evidence, affidavits, documentation and argument for consideration by the Administrative Law Judges. The panel may consider any evidence and argument submitted until the hearing record is closed, or may continue a hearing to enable the parties to submit additional testimony. All hearings must be open to the public.

### **WITHDRAWAL OF COMPLAINT**

At any time before an evidentiary hearing begins, a complainant may withdraw a complaint. After the evidentiary hearing begins, however, a complaint filed may only be withdrawn with the permission of the panel.

### **COSTS**

If the panel determines the complaint is frivolous, it may order the complainant to pay the respondent's reasonable attorney fees and to pay the costs of the office in the proceeding in which the complaint was dismissed.

### **BURDEN OF PROOF**

The burden of proving the allegations in the complaint is on the complainant. The standard of proof of a violation of section 211B.06, relating to false statements in paid political advertising or campaign material, is clear and convincing evidence. The standard of proof of any other violation of chapter 211A or 211B is a preponderance of the evidence.

### **DISPOSITION OF COMPLAINT**

At the conclusion of the evidentiary hearing, the panel must determine whether the violation alleged in the complaint occurred and must make at least one of the following dispositions:

- (1) The panel may dismiss the complaint.
- (2) The panel may issue a reprimand.
- (3) The panel may find that a statement made in a paid advertisement or campaign material violated section 211B.06.
- (4) The panel may impose a civil penalty of up to \$5,000 for any violation of chapter 211A or 211B.

- (5) The panel may refer the complaint to the appropriate county attorney.

The panel must dispose of the complaint within three days after the hearing record closes, if an expedited probable cause hearing was required by section 211B.33; or within 14 days after the hearing record closes, if an expedited probable cause hearing was not required by section 211B.33.

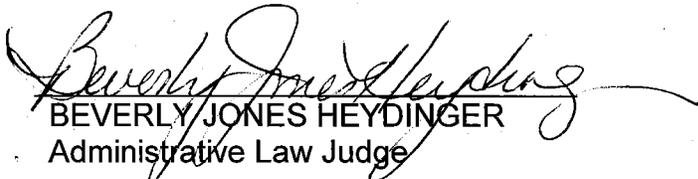
### **JUDICIAL REVIEW**

A party aggrieved by a final decision on a complaint filed under section 211B.32 is entitled to judicial review of the decision as provided in Minn. Stat. §§ 14.63 to 14.69.

### **REASONABLE ACCOMODATION**

Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, the Office of Administrative Hearings must be promptly notified. To arrange an accommodation, contact the Office of Administrative Hearings at 600 North Robert Street, P.O. Box 64620, St. Paul, Minnesota 55164-0620, or call 651-361-7900 (voice) or 651-361-7878 (TTY).

Dated this 27<sup>th</sup> day of February 2012.

  
BEVERLY JONES HEYDINGER  
Administrative Law Judge

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

Minnesota Democratic Farmer Labor  
Party,  
Complainant,  
vs.

**AMENDED NOTICE OF  
DETERMINATION OF PRIMA FACIE  
VIOLATION  
AND  
NOTICE OF AND ORDER FOR  
EVIDENTIARY HEARING**

Minnesota Senate Republican Caucus,  
Senator David Senjem, Senator Al  
DeKruif, Senator Chris Gerlach, Senator  
Joe Gimse, Senator Gretchen Hoffman,  
Senator Benjamin Kruse, Senator Ted  
Lillie, Senator Geoff Michel, Senator  
Carla Nelson, Senator Claire Robling,  
Senator Ray Vandever, Senator Pam  
Wolf, Senator Michelle Fischbach,  
Senator Doug Magnus, Senator John  
Pederson, and Steve Sviggum

Respondents.

**TO: PARTIES**

On Tuesday, February 14, 2012, the Minnesota Democratic-Farmer-Labor Party (DFL) filed a Campaign Complaint with the Office of Administrative Hearings alleging that the Minnesota Senate Republican Caucus and all but the last four above-named individuals violated Minnesota Statutes §§ 211B.04 and 211B.09 of the Fair Campaign Practices Act in connection with a "Senate GOP Legislative Update" prepared for distribution at the Republican Precinct Caucuses on February 7, 2012.

The Chief Administrative Law Judge assigned this matter to the undersigned Administrative Law Judge on February 15, 2012. A copy of the complaint and attachments were sent by U.S. mail to the Respondents on February 15, 2012.

By Order dated February 17, 2012, the Administrative Law Judge determined that the Complaint set forth a *prima facie* violation of Minn. Stat. § 211B.04, but failed to set forth a *prima facie* violation of Minn. Stat. § 211B.09. The § 211B.09 claim was dismissed without prejudice.

On February 24, 2012, the Office of Administrative Hearings was made aware that the Complainant had filed an Amended Complaint on February 15, 2012, that

added four additional Respondents and attached two additional exhibits.<sup>1</sup> The substance of the allegations remained substantially the same. Through an oversight on the part of the Office, the Amended Complaint was overlooked and was not considered in the original Prima Facie Determination and Order.

The Administrative Law Judge has now reviewed the Amended Complaint and attached exhibits, and has determined that the Amended Complaint sets forth a *prima facie* violation of Minn. Stat. § 211B.04, but fails to set forth *prima facie* violations of Minn. Stat. § 211B.09. This determination is described in more detail in the attached Memorandum.

**THEREFORE, IT IS HEREBY ORDERED AND NOTICE IS GIVEN THAT:**

1. The Complainant's claim under § 211B.09 is dismissed without prejudice; and
2. The Complainant's claim under § 211B.04 will be scheduled for a prehearing conference and evidentiary hearing to be held at the Office of Administrative Hearings.

The evidentiary hearing must be held within 90 days of the date the complaint was filed, pursuant to Minn. Stat. § 211B.35. You will be notified of both the dates and times of the prehearing conference and evidentiary hearing, and the three judges assigned to it, within approximately two weeks of the date of this Order. The evidentiary hearing will be conducted pursuant to Minnesota Statutes § 211B.35. Information about the evidentiary hearing procedures and copies of state statutes may be obtained online at <http://mn.gov/oah/> and [www.revisor.leg.state.mn.us](http://www.revisor.leg.state.mn.us).

At the evidentiary hearing, all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. In addition, the parties have the right to submit evidence, affidavits, documentation and argument for consideration by the Administrative Law Judge. Parties should bring with them all evidence bearing on the case with copies for the Administrative Law Judge and opposing party.

After the evidentiary hearing, the Administrative Law Judges may dismiss the complaint, issue a reprimand, or impose a civil penalty of up to \$5,000. The panel may also refer the complaint to the appropriate county attorney for criminal prosecution. A party aggrieved by the decision of the panel is entitled to judicial review of the decision as provided in Minn. Stat. §§ 14.63 to 14.69.

Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, the Administrative Law Judge must be promptly notified. To arrange an accommodation, contact the Office of Administrative Hearings at 600

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<sup>1</sup> Amended Complaint Ex. B (MPR News website article dated February 14, 2012) and Ex. D (Star Tribune article dated February 14, 2012).

North Robert Street, P.O. Box 64620, St. Paul, MN 55101, or call 651-361-7900 (voice) or 651-361-7878 (TTY).

Dated: February 27, 2012

  
BEVERLY JONES HEYDINGER  
Administrative Law Judge

### MEMORANDUM

The Amended Complaint alleges that the Minnesota Senate Republican Caucus (MNSRC) the named individual Senators, and Steve Sviggum, the communications director and executive assistant for the MNSRC, used Senate staff and resources to prepare a "Senate GOP Legislative Update" for distribution at the February 7, 2012, Republican Precinct Caucuses.<sup>2</sup> The "Legislative Updates" included the MNSRC logo and web addresses for the MNSRC's Facebook account, Twitter account, and website. The MNSRC website includes pages soliciting contributions to the Senate Victory Fund and soliciting volunteers for "campaign opportunities."<sup>3</sup> In an MPR News article attached to the Amended Complaint, Mr. Sviggum admits that the Legislative Updates should not have included a link to the MNSRC website. Mr. Sviggum is quoted in the article as stating that ". . . the link to the website was wrong. That is my fault and my problem."<sup>4</sup>

The Amended Complaint alleges that the Legislative Updates were not provided to all constituents but instead were provided exclusively to individuals attending the Republican Party Precinct Caucuses.<sup>5</sup> The Amended Complaint maintains that the Legislative Updates meet the definition of "campaign material" and were required to include a disclaimer identifying the name and address of the person or committee causing the material to be prepared or disseminated. The Complainant also alleges that "upon information and belief," Respondents compelled Minnesota Senate staff to design, draft and prepare the Legislative Updates in violation of Minn. Stat. § 211B.09.

#### Standard of Review

To set forth a *prima facie* case that entitles a party to a hearing, the party must either submit evidence or allege facts that, if unchallenged or accepted as true, would be sufficient to prove a violation of chapter 211A or 211B.<sup>6</sup> For purposes of a *prima facie* determination, the tribunal must accept the facts alleged as true and the

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<sup>2</sup> Amended Complaint Ex. A.

<sup>3</sup> Copy of screen shots of MNSRC website attached to original Complaint.

<sup>4</sup> *Id.*

<sup>5</sup> Amended Complaint Ex. C.

<sup>6</sup> *Barry v. St. Anthony-New Brighton Independent School District*, 781 N.W.2d 898, 902 (Minn. App. 2010).

allegations do not need independent substantiation.<sup>7</sup> A complaint must be dismissed if it does not include evidence or allege facts that, if accepted as true, would be sufficient to prove a violation of chapter 211A or 211B.<sup>8</sup>

### Minn. Stat. § 211B.04 claim

Minnesota Statutes § 211B.04 makes it unlawful to prepare or disseminate most types of campaign material without prominently including the name and address of the “person or committee causing the material to be prepared or disseminated ....” “Campaign material” is defined, in relevant part, as “any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election.”<sup>9</sup>

The “Legislative Update” is a two-page document that promotes the Senate Republican majority’s perceived legislative accomplishments in 2011, discusses proposed legislative initiatives for the 2012 session, and thanks those attending the Republican precinct caucuses for their involvement. The Amended Complaint states that the Legislative Updates were tailored for each of the individual Senators named as Respondents and included each Senator’s name and photograph.<sup>10</sup> An example of the two-page Legislative Update (Complainant’s Exhibit A) appears below:



**2012 Session**  
**SENATE GOP**  
**Legislative Update**

**First Budget Surplus Projection in 5 Years**  
Minnesota's Management and Budget Office announced a \$875 million surplus for the state in its November forecast. This is a great budget improvement from the \$3.2 billion deficit the Senate Republicans inherited in the 2011 Legislative Session. By making tough choices on the spending side of the budget, prioritizing the state's needs, providing regulatory reform and enhancing job growth – the Senate Republican majority delivered for Minnesota.

**The Senate Republican majority delivered for Minnesota.**

Performance is important and how we should be judged. The 2011 budget was set to grow to \$39 billion – the Governor presented a \$37.3 billion budget – and at the end of the unnecessary special session the Governor agreed to the Republican's \$34 billion budget! This was a win for the taxpayers of Minnesota – and obviously a win for the state's budget.

This budget surplus provides not only opportunities as we move ahead, but allows the 2012 Session to focus on needed government reforms and efficiency.

**Redistricting to be unveiled on Feb 21st**  
The Constitution of Minnesota gives responsibility to the Legislature to redraw the legislative district lines every 10 years, after the census is taken. This is to get back to the Constitutional adage of “one person, one vote.”

In the 2011 Legislative Session, the Republican Senate and House met the redistricting responsibility only to have the bill vetoed by Governor Dayton. This unfortunately now leaves the redistricting responsibility in the hands of the courts. They will unveil the new district lines on February 21.

All 134 House and 57 Senate Districts will be redrawn and all senators and representatives will be up for election on General Election Day, November 6.

**THANK YOU**  
for joining this  
Republican  
precinct caucus!

Exhibit  
**A**

Senator  
**RAY VANDEVEER**



<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Minn. Stat. § 211B.01, subd. 2.

<sup>10</sup> Complaint Exs. A and B.

### Reform 2.0 to lead session policy

In 2011, the Senate and House majorities led the way to reduce government paperwork and bureaucratic delays in the permitting process. Governor Dayton joined Senate Republicans in the initiative that produced the bipartisan effort.

Now on to the second phase of redesign/reforms – hence Reform 2.0. Government reform ideas abound and are the result of numerous outreach meetings to gather citizen input and direction. These redesign efforts are importantly about efficiency and cost control but as importantly – getting the right services to the right people.

### More Constitutional Amendments coming?

During the 2011 Legislative Session, Senate Republicans successfully fought to allow the citizens of Minnesota to vote on the marriage amendment. No matter how Minnesotans feel individually on the issue, empowering their voice and vote is good, representative government. On the November 6th ballot, all citizens can have their voice directly heard on the important issue of marriage.

Additional constitutional amendments may be considered during this upcoming session. Photo ID for legal voting, a bipartisan redistricting commission, Freedom to Work, supermajority to raise taxes and other issues. The number of questions to be placed on the ballot is also strategically being discussed.

### Jobs – Jobs – Jobs

The focus of almost every legislative action taken by Senate Republicans involves jobs and getting people to work. From the government reform issues mentioned above to holding the line on state spending to prioritized tax incentives for job creation – private sector jobs have been our focus. This session will provide many opportunities to make Minnesota a state that works – in many ways. Every bill that passes should be judged, not only on whether it is in the best interests of Minnesota, but if it makes Minnesota work.

We appreciate your involvement,  
and hope you will keep in touch!



Facebook.com/MNSRC  
Twitter.com/MNSRC  
mnsrc.org



The Administrative Law Judge concludes that the Complainant has alleged sufficient facts to support finding a *prima facie* violation of Minn. Stat. § 211B.04. The Legislative Updates appear to meet the definition of “campaign material,” and they lack a disclaimer substantially in the form required by Minn. Stat. § 211B.04. Although the inclusion of the MNSRC logo and website address suggests that it is the entity that prepared and paid for the “Legislative Updates,” the suggestion is insufficient to substantiate the identity of the author in light of the messages from and photos of the individual senators that appear on the first page. Without the required prominent disclaimer identifying the name and address of the person or committee causing the material to be prepared or disseminated, it cannot be determined who prepared the material. This allegation will proceed to a prehearing conference.

### Minn. Stat. § 211B.09 claim

The Complainant also alleges that, “upon information and belief,” Respondents violated Minn. Stat. § 211B.09 by directing Minnesota Senate staff to design, draft and prepare the “Legislative Updates” using Senate resources.

Minn. Stat. § 211B.09 provides, in part, as follows:

An employee or official of the state or of a political subdivision may not use official authority or influence to compel a person to apply for membership in or become a member of a political organization, to pay or promise to pay a political contribution, or to take part in political activity.

In order to allege a *prima facie* violation of Minn. Stat. § 211B.09, the Complainant must put forward facts that would support finding the Respondents used their authority or influence to “compel” Senate staff to take part in a political activity. The Merriam Webster Dictionary defines “compel” to mean “to drive or urge forcefully or irresistibly;” or “to cause to do or occur by overwhelming pressure.”<sup>11</sup>

Even if it is assumed that designing, drafting and preparing the Legislative Updates amounts to “taking part in a political activity,” the Complainant has failed to allege any facts to support its claim that any or all of the Respondents used forceful or overwhelming pressure to *compel* Senate staffers to perform these tasks. This allegation is dismissed without prejudice.

The remaining disclaimer allegation will proceed to a prehearing conference and evidentiary hearing before a three-judge panel to be scheduled in the near future.

**B.J.H.**

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<sup>11</sup> Merriam Webster Online Dictionary.



ADMINISTRATIVE HEARINGS

FEB 15 2012

REC'D AT LOBBY DESK

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
PO Box 64620  
St. Paul, MN 55164-0620

### AMENDED COMPLAINT FORM FOR VIOLATION OF THE FAIR CAMPAIGN PRACTICES AND CAMPAIGN FINANCE ACTS

#### Information about complaint filer (Complainant)

Name of complaint filer Minnesota Democratic-Farmer-Labor Party	
Address 225 East Plato Boulevard	
City, state, zip St. Paul, MN 55107	Daytime telephone no. 651-251-6302
Fax no. 651-251-6325	E-mail address kmartin@dfi.org

#### Identify person/entity you are complaining about (Respondent)

Name of person/entity being complained about Minnesota Senate Republican Caucus	
Address 161 St. Anthony Avenue, Suite 902	
City, state, zip St. Paul, MN 55103	Daytime telephone no. 651-487-0088
Fax no. N/A	E-mail address info@mnsr.org

Name of person/entity being complained about Senator David Senjem	
Address 75 Rev. Dr. Martin Luther King Jr. Boulevard, Capitol Building, Room 121	
City, state, zip Saint Paul, MN 55155-1606	Daytime telephone no. 651-296-3903
Fax no. N/A	E-mail address sen.david.senjem@senate.mn

Name of person/entity being complained about Senator Al DeKruif	
Address 75 Rev. Dr. Martin Luther King Jr. Boulevard, Capitol Building, Room G-24	
City, state, zip Saint Paul, MN 55155-1606	Daytime telephone no. 651-296-1279
Fax no. N/A	E-mail address sen.al.dekruif@senate.mn

Name of person/entity being complained about Senator Chris Gerlach	
Address 75 Rev. Dr. Martin Luther King Jr. Boulevard, Capitol Building, Room 120	
City, state, zip Saint Paul, MN 55155-1606	Daytime telephone no. 651-296-4120
Fax no. N/A	E-mail address sen.chris.gerlach@senate.mn

Name of person/entity being complained about Senator Joe Gimse	
Address 75 Rev. Dr. Martin Luther King Jr. Boulevard, Capitol Building, Room 303	
City, state, zip Saint Paul, MN 55155-1606	Daytime telephone no. 651-296-3826
Fax no. N/A	E-mail address sen.joe.gimse@senate.mn

Name of person/entity being complained about Senator Gretchen Hoffman	
Address 75 Rev. Dr. Martin Luther King Jr. Boulevard, Capitol Building, Room 124	
City, state, zip Saint Paul, MN 55155-1606	Daytime telephone no. 651-296-5655
Fax no. N/A	E-mail address Sen.gretchen.hoffman@senate.mn

Name of person/entity being complained about Senator Benjamin Kruse	
Address 75 Rev. Dr. Martin Luther King Jr. Boulevard, Capitol Building, Room 124	
City, state, zip Saint Paul, MN 55155-1606	Daytime telephone no. 651-296-4154
Fax no. N/A	E-mail address sen.benjamin.kruse@senate.mn

Name of person/entity being complained about Senator Ted Lillie	
Address 75 Rev. Dr. Martin Luther King Jr. Boulevard, Capitol Building, Room 124	
City, state, zip Saint Paul, MN 55155-1606	Daytime telephone no. 651-296-4166
Fax no. N/A	E-mail address sen.ted.lillie@senate.mn

Name of person/entity being complained about Senator Geoff Michel	
Address 75 Rev. Dr. Martin Luther King Jr. Boulevard, Capitol Building, Room 208	
City, state, zip Saint Paul, MN 55155-1606	Daytime telephone no. 651-296-6238
Fax no. N/A	E-mail address sen.geoff.michel@senate.mn

Name of person/entity being complained about Senator Carla Nelson	
Address 75 Rev. Dr. Martin Luther King Jr. Boulevard, Capitol Building, Room 111	
City, state, zip Saint Paul, MN 55155-1606	Daytime telephone no. 651-296-4848
Fax no. N/A	E-mail address sen.carla.nelson@senate.mn

Name of person/entity being complained about Senator Claire Robling	
Address 75 Rev. Dr. Martin Luther King Jr. Boulevard, Capitol Building, Room 226	
City, state, zip Saint Paul, MN 55155-1606	Daytime telephone no. 651-296-4123
Fax no. N/A	E-mail address sen.claire.robbling@senate.mn

Name of person/entity being complained about Senator Ray Vandever	
Address 75 Rev. Dr. Martin Luther King Jr. Boulevard, Capitol Building, Room 328	
City, state, zip Saint Paul, MN 55155-1606	Daytime telephone no. 651-296-4351
Fax no. N/A	E-mail address sen.ray.vandever@senate.mn

Name of person/entity being complained about Senator Pam Wolf	
Address 75 Rev. Dr. Martin Luther King Jr. Boulevard, Capitol Building, Room 306	
City, state, zip Saint Paul, MN 55155-1606	Daytime telephone no. 651-296-2556
Fax no. N/A	E-mail address sen.pam.wolf@senate.mn

Name of person/entity being complained about Senator Michelle Fischbach	
Address 75 Rev. Dr. Martin Luther King Jr. Boulevard, Capitol Building, Room 226	
City, state, zip Saint Paul, MN 55155-1606	Daytime telephone no. 651-296-2084
Fax no. N/A	E-mail address sen.michelle.fischbach@senate.mn

Name of person/entity being complained about Senator Doug Magnus	
Address 75 Rev. Dr. Martin Luther King Jr. Boulevard, Capitol Building, Room 205	
City, state, zip Saint Paul, MN 55155-1606	Daytime telephone no. 651-296-5650
Fax no. N/A	E-mail address sen.doug.magnus@senate.mn

Name of person/entity being complained about Senator John Pederson	
Address 75 Rev. Dr. Martin Luther King Jr. Boulevard, Capitol Building, Room G-24	
City, state, zip Saint Paul, MN 55155-1606	Daytime telephone no. 651-296-6455
Fax no. N/A	E-mail address sen.john.pederson@senate.mn

Name of person/entity being complained about Steve Sviggum	
Address 75 Rev. Dr. Martin Luther King Jr. Boulevard, Capitol Building, Room 121	
City, state, zip Saint Paul, MN 55155-1606	Daytime telephone no. 651-296-4184
Fax no. N/A	E-mail address

Give the statutory cite to the part of Minnesota Statutes Chapter 211A or 211B that you believe has been violated: Minnesota Statutes, Sections 211B.04 and 211B.09.

Date(s) of violation: Approximately February 7, 2012.

Date of election or ballot question: August 14, 2012 (primary) and November 2, 2012 (general).

Elected office or ballot question involved: Various Minnesota Senate races.

If allowed by law, do you wish to request an expedited probable cause hearing (within 3 business days)? No.

**Nature of Complaint**

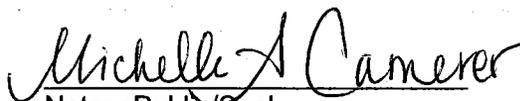
See attached.

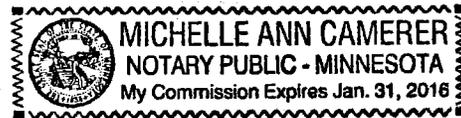
I, Corey Day, under penalty of perjury, swear or affirm that the statements I have made in this complaint are true and correct to the best of my knowledge.

  
\_\_\_\_\_  
Corey Day  
Executive Director  
Minnesota Democratic-Farmer-Labor Party

2/15/12  
\_\_\_\_\_  
Date

Sworn/affirmed before me  
this 15 day of February, 2012.

  
\_\_\_\_\_  
Notary Public/Seal



**STATEMENT REGARDING NATURE OF VIOLATION OF  
MINN. STAT. §§ 211B.04 AND 211B.09**

**INTRODUCTION**

This complaint presents a violation of the Minnesota Fair Campaign Practices Act by the Minnesota Senate Republican Caucus (“MNSRC”), the individual Senators identified in the Complaint Form, and Steve Sviggum, the communications director and executive assistant for the Republican Caucus in the Minnesota Senate (collectively, “Respondents”). Respondents utilized Senate staff and resources to prepare a “Senate GOP Legislative Update” for distribution at the February 7, 2012 Republican Precinct Caucuses. Although, the “Legislative Update” is campaign material as defined by Minn. Stat. § 211B.01, subd. 2, it does not contain the disclaimer required by Minn. Stat. § 211B.04. Moreover, upon information and belief, Respondents or other State employees or officials required Senate staff to design, draft, and prepare the “Legislative Update” in violation of Minn. Stat. § 211B.09. The OAH should find a *prima facie* violation, and then assess a penalty against Respondents under Minn. Stat. § 211B.35.

**FACTUAL SUMMARY**

Respondents, using state staff and resources, prepared a “Senate GOP Legislative Update” for distribution at the February 7, 2012 Republican Party Precinct Caucuses. See Exhibit A. The “Legislative Update” was tailored for each of the individual Senators and included the Senator’s name and photograph adjacent to the statement “THANK YOU for joining this Republican Caucus!” The “Legislative Updates” included the MNSRC logo and web addresses for the MNSRC’s Facebook account, Twitter account, and website. The MNSRC website includes pages soliciting contributions to the Senate Victory Fund ([www.senatevictoryfund.com/contribute](http://www.senatevictoryfund.com/contribute)) and soliciting volunteers for “campaign opportunities”

([www.senatevictoryfund.com/volunteer](http://www.senatevictoryfund.com/volunteer)).<sup>1</sup> A February 14, 2012 MPR News story indicates that Sviggum acknowledged that the “Legislative Update” should not have included the link to the MNSRC website which solicited donations and asked people to volunteer for political campaigns. *See* Exhibit B (February 14, 2012, Report by Tom Scheck, Minnesota Public Radio). Sviggum was quoted as saying “. . . the link to the website was wrong. That is my fault and my problem.” The report further states that Sviggum has agreed to reimburse the Senate for the costs of printing the material.

The “Legislative Updates” were not provided to all constituents but rather were provided exclusively to individuals attending the Republican Party Precinct Caucuses. *See* Exhibit C (February 13, 2012, Report by Tom Scheck, Minnesota Public Radio) (“[Senator David Senjem] said the materials were handed out specifically at precinct caucuses and included a message thanking people for joining the Republican precinct caucus.”). The individuals attending the Republican Precinct Caucuses self-identify as agreeing with the principles of the Republican Party likely to vote for Republican candidates. *See* Minnesota Statute, Section 202A.16, subd. 2 (providing that “Only those persons who are in agreement with the principles of the party as stated in the party's constitution, and who either voted or affiliated with the party at the last state general election or intend to vote or affiliate with the party at the next state general election, may vote at the precinct caucus.”).

Upon information and belief, Respondents directed Minnesota Senate staff, both partisan and non-partisan, to design, draft, and prepare the “Legislative Updates” using State resources. Additionally, it appears that Senator Joe Gimse may have used state resources to attempt to

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<sup>1</sup> As of 2:00 pm on February 14, 2012, the website [www.mnsrc.org](http://www.mnsrc.org) was updated to automatically redirect visitors to the MNSRC Facebook page. Previously, the [www.mnsrc.org](http://www.mnsrc.org) website was active and clicking on any tab on the [www.mnsrc.org](http://www.mnsrc.org) website redirects users to an identical-appearing website [www.senatevictoryfund.org](http://www.senatevictoryfund.org).

deliver the "Legislative Update" for distribution in his home district in Willmar, Minnesota. See Exhibit D (February 14, 2012, Report by Rachel Stassen-Berger, StarTribune) ("Gimse never did distribute the literature because the packet of material did not reach him in Willmar. 'It was returned to my office because of insufficient postage,'" Gimse said. It is unknown whether other Senators may have used state resources to deliver the "Legislative Updates" for distribution at the precinct caucuses.

### ARGUMENT

Minn. Stat. § 211B.04 requires all "campaign materials" to include a disclaimer identifying the name and address of the person or committee causing the material to be prepared or disseminated. "Campaign material" is defined as "any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election, except for news items or editorial comments by the news media." Minn. Stat. § 211B.01, subd. 2.

The "Legislative Update" is campaign material: (1) it is "literature, publication, or material;" (2) it was disseminated at the February 7, 2012, Republican Party Precinct Caucuses; and (3) it is intended to influence voting at a primary or other election. It cannot be disputed that the "Legislative Update" is designed to garner support among caucus participants for specific, identified, incumbent candidates for the Minnesota Senate. The "Legislative Update" was neither intended for nor provided to all constituents regardless of party affiliation. Rather, it promotes the the Republican Party, identifies a candidate who shares goals of the Party, and is targeted for, and was distributed to, an audience of self-identified likely Republican voters. The political and campaign character of the "Legislative Update" is underscored by the fact that, rather than providing contact information for each incumbent Senator, the "Legislative Update" directs its audience to the MNSRC's website which solicits support through financial contributions and volunteer opportunities. Most importantly, Sviggum admitted that "the link to

the website was wrong” and that the “Legislative Updates” should not have been prepared at taxpayer expense.<sup>2</sup>

The “Legislative Update” does not contain the disclaimer required by Minn. Stat. § 211B.04 or otherwise identify the person or entity that paid for the production of the campaign material. Without the required disclaimer, it is impossible to identify the persons or entities who paid for the production and dissemination of the campaign material.

Minn. Stat. § 211B.09 prohibits an employee or official of the state from using “official authority or influence to compel a person . . . to take part in political activity.” Upon information and belief, Respondents or other state employees or officials acting on their behalf compelled Senate staff to design, draft, and prepare the “Legislative Updates” using state resources. By requiring staff to participate in the preparation of partisan campaign materials, Respondents and/or others acting on their behalf committed a clear violation of Minn. Stat. § 211B.09.<sup>3</sup>

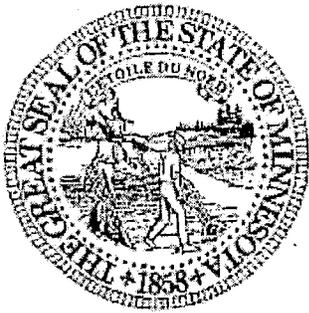
#### CONCLUSION

In light of the foregoing, the Minnesota Democratic-Farmer-Labor Party respectfully requests that the Office of Administrative Hearings determine that this complaint establishes a *prima facie* violation of Minn. Stat. §§ 211B.04 and 211B.09 by Respondents and schedule a probable cause hearing pursuant to Minn. Stat. § 211B.34.

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<sup>2</sup> Although Sviggum admits only to the fact that the “Legislative Update” should not have included a link to the MNSRC site, the entirety of the document is “campaign material” irrespective of whether the link was included.

<sup>3</sup> This conduct also likely violates Minnesota Senate Policy 1.45 which provides that Senate employees may not engage in campaign activity during hours worked for the Senate and prohibits the use of Senate equipment and supplies for campaign activities. *See* Exhibit C.



2012 Session

**SENATE GOP**

**Legislative Update**

## First Budget Surplus Projection in 5 Years

Minnesota's Management and Budget Office announced a \$875 million surplus for the state in its November forecast. This is a great budget improvement from the \$5.2 billion deficit the Senate Republicans inherited in the 2011 Legislative Session. By making tough choices on the spending side of the budget, prioritizing the state's needs, providing regulatory reform and enhancing job growth – the Senate Republican majority delivered for Minnesota.

Performance is important and how we should be judged. The 2011 budget was set to grow to \$39 billion – the Governor presented a \$37.5 billion budget – and at the end of the unnecessary special session the Governor agreed to the Republican's \$34 billion budget! This was a win for the taxpayers of Minnesota – and obviously a win for the state's budget.

This budget surplus provides not only opportunities as we move ahead, but allows the 2012 Session to focus on needed government reforms and efficiency.

**The Senate  
Republican  
majority  
delivered for  
Minnesota.**

## Redistricting to be unveiled on Feb 21st

The Constitution of Minnesota gives responsibility to the Legislature to redraw the legislative district lines every 10 years, after the census is taken. This is to get back to the Constitutional adage of "...one person, one vote."

In the 2011 Legislative Session, the Republican Senate and House met the redistricting responsibility only to have the bill vetoed by Governor Dayton. This unfortunate veto leaves the redistricting responsibility in the hands of the courts. They will unveil the new district lines on February 21.

All 134 House and 67 Senate Districts will be redrawn and all senators and representatives will be up for election on General Election Day, November 6.

**THANK YOU**  
for joining this  
Republican  
precinct caucus!

Exhibit

**A**

Senator  
**RAY VANDEVEER**



## Reform 2.0 to lead session policy

In 2011, the Senate and House majorities led the way to reduce government paperwork and bureaucratic delays in the permitting process. Governor Dayton joined Senate Republicans in the initiative that produced the bipartisan effort.

Now on to the second phase of redesign/reform – hence Reform 2.0. Government reform ideas abound and are the result of numerous outreach meetings to gather citizen input and direction. These redesign efforts are importantly about efficiency and cost control but as importantly “...getting the right services to the right people.”

## More Constitutional Amendments coming?

During the 2011 Legislative Session, Senate Republicans successfully fought to allow the citizens of Minnesota to vote on the marriage amendment. No matter how Minnesotans feel individually on the issue, empowering their voice and vote is good, representative government. On the November 6th ballot, all citizens can have their voice directly heard on the important issue of marriage.

Additional constitutional amendments may be considered during this upcoming session. Photo ID for legal voting, a bipartisan redistricting commission, Freedom to Work, supermajority to raise taxes and other issues. The number of questions to be placed on the ballot is also strategically being discussed.

## Jobs – Jobs – Jobs

The focus of almost every legislative action taken by Senate Republicans involves jobs and getting people to work. From the government reform issues mentioned above to holding the line on state spending to prioritized tax incentives for job creation – private sector jobs have been our focus. This session will provide many opportunities to make Minnesota a state that works – in many ways. Every bill that passes should be judged, not only on whether it is in the best interests of Minnesota, but if it makes Minnesota work.

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We appreciate your involvement,  
and hope you will keep in touch!



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## Sviggum apologizes for pamphlet mistake

by Tom Scheck, Minnesota Public Radio  
February 14, 2012

ST. PAUL, Minn. — The chief spokesman for the Senate Republican caucus admitted today that taxpayers should not have paid for a pamphlet that was distributed at last week's precinct caucuses.

Fifteen Republican senators handed out the brochures on caucus night. Republicans admitted their error just minutes after state DFL Party officials filed a campaign finance complaint.

On Tuesday, Steve Sviggum admitted he made a mistake, reversing course from statements on Monday when he and Senate Majority Leader Dave Senjem explained why they had the legal authority to print leaflets at taxpayer expense.

They said those materials, which highlighted their 2012 agenda and explained their position on proposed constitutional amendments, were approved by the Senate's chief counsel.

"This problem that developed today is my fault and nobody else's," Sviggum said.

Sviggum said that he will reimburse the Senate for the cost of the printing. He maintains that the content of the materials is fine but says it should not have included a link to the Senate Republican Caucuses' political website. That site solicited donations and asked for people to volunteer for political campaigns.

"While yesterday we had vetted the language of the piece as being within constituent service and being within appropriate legal and ethical outreach, the link to the website was wrong," Sviggum said. "That is my fault and my problem."

Sviggum said that the 15 senators who distributed the literature should not be penalized. Democrats do not agree. DFL Party Chair Ken Martin said he believes each senator who handed out the materials on caucus night and the Senate Republican Caucus should be penalized. Martin said the taxpayer money used for political purposes violates the law.

"The taxpayers of Minnesota should not be on the dime for campaign activities here at the Capitol. We saw people back in the mid-90s in my party get in a lot of trouble for this, and this is very clearly along those same lines," Martin said. "It doesn't matter if it's one dime or thousands of dollars. It's still a violation."

DFL Senate Minority Leader Tom Bakk said he is pleased to hear that Sviggum admitted the mistake and will pay the Senate back for the cost of the printing. But he said each senator who handed out the materials should be held accountable. For example, he said Sen. Senjem admitted on Monday that he personally reviewed and approved his materials.

"Clearly the members of the Senate are responsible for the actions of our employees and I think they bear certainly equal or more responsibility than an employee of the Senate does," Bakk said.

The cost of the brochures to the taxpayers was minimal, but Democrats pointed out they paid private printers much more than the Republicans spent to produce brochures of their own.

Recommend 13 people recommend this. Be the first of your friends.

### Broadcast Dates

All Things Considered, 02/14/2012, 5-43 p.m.

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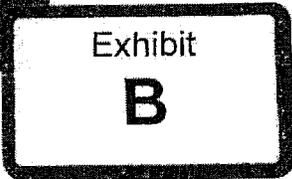
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## DFLers cry foul over GOP fliers printed with public money

by Tom Scheck, Minnesota Public Radio  
February 13, 2012

### AUDIO

4) DFLers cry foul over GOP fliers printed with public money (feature audio)

St. Paul, Minn. — Some Republican state senators handed out pamphlets at precinct caucuses last week that were printed at taxpayer expense.

Democrats allege that violates Senate rules and state law that prohibit using taxpayer money to campaign for office. But Republicans say they don't think they've done anything wrong.

Among the 15 Republican senators who distributed the literature were powerful office holders like Senate Majority Leader Dave Senjem of Rochester and freshmen in swing districts, like Ben Kruse of Brooklyn Park.

The brochure, titled "Senate GOP Legislative Update," credited Senate Republicans for accomplishments such as making tough choices that resulted in a projected budget surplus to giving Minnesotans a chance to vote on the proposed marriage amendment to the state constitution.

"In my mind that was a constituent piece and they are constituents," Senjem said.

He said the materials were handed out specifically at precinct caucuses and included a message thanking people for joining the Republican precinct caucus. Senjem said his chief attorney said it was OK to distribute the materials at caucuses.

"As I read it, it was generally what are we doing as Republican members up here," Senjem said. "We passed it off to Senate counsel in terms of appropriateness. It met his test."

In all, 4,725 flyers were printed at a cost of less than \$50 to taxpayers. Whatever the cost, Senate Minority Leader Tom Bakk, DFL-Cook, said he has deep concerns about what happened.

"I think it's absolutely outrageous that they would use state resources, state equipment, state employees and state paper to print what is clearly campaign literature," he said.

Bakk said both state law and Senate policies forbid public officials from relying on state employees and equipment for political purposes. He said the materials were directly aimed at giving Republicans an advantage in the upcoming elections.

By distributing the materials, Bakk said, the incumbent senators also improperly used the power of their office. He said that has the potential to hurt other Republicans as well as Democrats.

"If I was going to challenge one of them for the endorsement or in the primary, how do you challenge an incumbent who has at their disposal the resources of the state Senate?" Bakk asked. "It gives them a tremendous competitive advantage against any challenge in the party."

Bakk said all of his members relied on their campaign accounts to pay for printing caucus materials. Some of those costs were more than 10 times what it cost the GOP to print their materials using Senate resources.

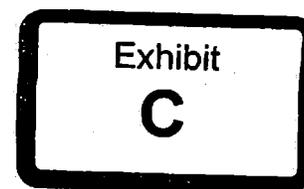
Republicans should acknowledge the mistake and pay the state back for the costs associated with the making of the materials, said Bakk, who plans to the Ramsey County Attorney to file a complaint against Senate Republicans.

But former Ramsey County Attorney Susan Gaertner said that may be a tough test. She said there's no clear, bright legal line on this issue.

"When prosecutors and law enforcement officials need to take a look at these kinds of cases, they need some pretty clear violations, and I haven't seen anything in these materials that would cross the line in my mind," she said.

### DISTRIBUTORS

LEGISLATOR	HANDBILLS DISTRIBUTED
Al DeKruif, Madison Lake	500
Michelle Fischbach, Paynesville	150
Chris Gerlach, Apple Valley	250
Joe Gimse, Willmar	100
Gretchen Hoffman, Vergas	150
Ben Kruse, Brooklyn Park	225
Ted Lillie, Lake Elmo	400
Doug Magnus, Slayton	50
Geoff Michel, Edina	200
Carla Nelson, Rochester	600
John Pederson, St. Cloud	500
Claire Robling, Jordan	600
Dave Senjem, Rochester	600
Ray Vandever, Forest Lake	400
Pam Wolf, Spring Lake Park	



300  
300  
Total: 4725

Source: Senate Republican Caucus

Recommend 30 people recommend this. Be the first of your friends.

**Broadcast Dates**

All Things Considered, 02/13/2012, 5:19 p.m.

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# StarTribune

## DFL: Tax money paid for GOP fliers

Article by: RACHEL E. STASSEN-BERGER  
Star Tribune

February 14, 2012 - 9:55 PM

START YOUR DAY with our Morning Hot Dish political newsletter, sent to your inbox. Sign up at [startribune.com/membercenter](http://startribune.com/membercenter).

The Minnesota DFL Party on Tuesday filed a complaint against Senate Republicans over fliers distributed at GOP caucuses last week, saying it was partisan material that should not have been printed at taxpayer expense.

DFL chair Ken Martin said the piece — prepared and printed by Senate staff — was part of a caucus pattern of "one scandal after another." He alleges the Senate Republicans broke the laws governing campaign materials and the use of state resources for political activity.

Senate GOP spokesman Steve Sviggum said the Senate Republican campaign committee will repay the cost of printing the fliers. Sviggum defended the decision to distribute the fliers at last week's state Republican caucus, saying that Senate counsel had given the OK.

The pieces thanked caucus-goers "for joining this Republican precinct caucus," and said "the Senate Republican majority delivered for Minnesota."

But Sviggum said the hand-outs also included a Web link to the Senate's campaign website, which includes a form to donate to Republicans, and acknowledges that was inappropriate.

"I take complete responsibility for a wrong," said Sviggum, a former speaker of the Minnesota House. He said that the Senate updated the link to a less partisan site Tuesday afternoon.

The complaint, filed with the Office of Administrative Hearings, presents a new challenge for Senate Republicans, at a time when they are still trying to recover from turmoil.

Senate Republicans suffered a tumultuous change in leadership at the end of December when former Majority Leader Army Koch, R-Buffalo, resigned in the wake of an affair with a subordinate. The caucus' former communications director is threatening a lawsuit over his dismissal and the caucus started the year with a \$2 million deficit.

Sviggum put the cost of printing the fliers at \$47 and said that amount will be repaid to the state.

But Senate Minority Leader Tom Bakk, DFL-Cook, said the \$47 likely falls far short of the actual cost. He estimated private printing costs at closer to \$150 per member.

He and Martin said the issue goes beyond the cost of printing.

"I also think it is important for somebody, some administrative body, to hold these elected officials and this caucus responsible for their actions," Martin said.

The complaint specifically names 12 senators, alleging they used Senate staff and resources to prepare and distribute partisan materials.

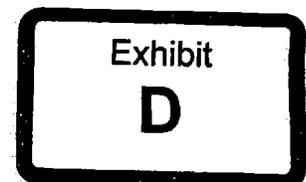
Sen. Joe Gimse, R-Willmar, was among the 12. "I thought it was an information piece," he said.

Gimse never did distribute the literature because the packet of material didn't reach him in Willmar.

"It was returned to my office because of insufficient postage," Gimse said.

Rachel E. Stassen-Berger • Twitter: @rachelsb

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## ❖ *Minnesota Senate — Policies (Conduct and Ethics)*

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### 1.45 Campaign Activity Policy

“Campaign activity” includes soliciting contributions to a political committee or political fund; recording contribution receipts; sending contribution thank-you notes or contribution receipt forms to contributors; preparing reports for the principal campaign committee of a candidate to file with the Ethical Practices Board; preparing the text or layout or having printed any campaign literature; assisting or participating in a campaign school for candidates; or preparing a written campaign plan for a candidate.

“Campaign activity” does not include preparing or assisting in the preparation of mass mailings of newsletters, questionnaires, legislative reports, or letters of congratulations, unless delivered more than 60 days after adjournment sine die in an election year for the Senate.

“Campaign activity” does not include analyzing or summarizing votes taken by an elected official; analyzing or summarizing public policy issues or proposals; or providing oral or written information to a candidate, except as specifically prohibited above.

#### **Employee Campaign Activity**

1. An employee of the Senate may not participate in campaign activity during hours the employee records as hours worked for the Senate.
2. An employee may not solicit campaign contributions from or within the Capitol Complex at any time.
3. An employee may receive unsolicited campaign contributions but must promptly forward them to the treasurer of a Senator’s principal campaign committee, who must not be a Senate employee.

#### **Use of Senate Facilities in Campaigns**

1. Senate equipment or supplies may not be used for campaign activities.
2. A Senator may purchase a copy of a photo taken by the official Senate photographer for use in campaign activity for the actual cost of producing the copy.
3. A Senator may copy data from a Senator’s files on the Senate Network for use in campaign activity, provided the Senate is reimbursed for any actual copying cost.

Adopted by the Committee on Rules and Administration February 27, 1997.

**Exhibit  
E**