



Senate

State of Minnesota

March 19, 2012

Senator Michelle Fischbach, Chair
Senate Rules Subcommittee on Ethical Conduct
226 State Capitol Building
75 Reverend Martin Luther King Jr. Blvd.
St. Paul, MN. 55155

Dear Madam Chair,

Attached to this letter is a complaint regarding the conduct of Senator Geoff Michel. This complaint is prepared pursuant to the provisions of Senate Permanent Rule 55. By the delivery of this letter and attached complaint, it is hereby filed pursuant to Rule 55. I ask for the Subcommittee on Ethical Conduct to investigate these matters and take action in accordance with this Rule.

I look forward to the Subcommittee acting on this complaint.

Sincerely,

A handwritten signature in cursive script that reads "Sandra Pappas".

Senator Sandra Pappas



**COMPLAINT
TO THE
SUBCOMMITTEE ON ETHICAL CONDUCT
REGARDING THE ACTIONS
OF
SENATOR GEOFF MICHEL**

Senator Sandra Pappas being first duly sworn, states and alleges under oath the following based upon information and belief:

1. On December 16, 2011, then Interim Senate Majority Leader Geoff Michel, along with Senator David Senjem, Senator David Hann, and Senator Chris Gerlach, made a public statement at a press conference in room 123 of the Minnesota State Capitol building.

2. At this press conference, Senator Michel spoke about the events leading up to the resignation of Senator Amy Koch as Majority Leader of the Minnesota Senate. Senator Koch had resigned her position as Senate Majority Leader in a public letter on December 15, 2011.

3. At this press conference, Senator Michel stated the following:

“over the course of the last several weeks, members of the senate staff, current senate staff members, brought forward to at least two of us here at the table, some serious allegations of an inappropriate relationship between the Majority Leader and a senate staffer.”

4. Later in the press conference, various reporters sought clarification of how and when Senator Michel became aware of an alleged inappropriate relationship between the Senate Majority Leader and subordinate senate employee, including the following separate exchanges:

(a) *Reporter*: “Did each of the five of you receive complaints [from senate employees] or was it just one of you, and you brought in the others? How did that work?”

Sen. Michel: “More than one of us and more than one complaint, again, not trying to dance around that Don, but we want to be sensitive to those employees who came forward.”

(b) *Reporter*: “So you folks did not know about this relationship before the staff came to you?”

Sen. Michel: “Correct.”

(c) *Reporter*: “And the first complaint was about two weeks ago?”

Sen. Michel: “Yes. The days are starting to meld into each other here, Rachel.”

(d) *Reporter*: “You said that you had been hearing about this for some weeks, why did it take you that long if this possibly has legal ramifications?”

Sen. Michel: “I think it’s, it’s depending on the member. I’ve said weeks, that’s certainly true from my, my personal knowledge as, as people approached me, and I was doing some, again, some immediate checking with, on the human resources, and the legal issues of this, and then reached out to some of my colleagues here on the leadership team.”

5. In an interview with Minnesota Public Radio that was broadcast on December 21, 2011, former Senate Republican Caucus chief of staff, Cullen Sheehan, stated the following:

“Three months ago, I became aware of a potential relationship between Sen. Koch and a staff person.”

6. Mr. Sheehan’s comments continued:

“I then spoke to the staff person and he confirmed the relationship. We both then met with Sen. Koch and she confirmed the relationship. The next day I met with Sen. Koch to discuss the situation. I subsequently met with the Deputy Majority Leader.”

7. The December 21 Minnesota Public Radio report stated, “Sheehan is also the first person to report an inappropriate relationship between Koch and a male staffer. He said he first learned of the relationship on Sept. 21.”

8. The December 21 Minnesota Public Radio report also stated, “Michel said he contacted senate human resources officers and lawyers on Sept. 23 to start investigating Koch's behavior.”

9. In a radio interview with Ron Rosenbaum that was broadcast on December 31, 2011, Senator Michel asserted when he first became aware of an alleged inappropriate relationship between the Senate Majority Leader and a subordinate senate employee, saying:

“I can share with you that, I guess the first conversations that I had about this date back to the end of September, and that’s when our chief of staff came to me with news or revelations that were stunning and hard for me to believe, difficult for me to believe, and something I didn’t want to believe, but also recognized the significance of it and the need to act.”

10. Later in the December 31 Ron Rosenbaum interview, Senator Michel summarized what Mr. Sheehan told him in September, 2011, as follows:

Rosenbaum: “It’s no secret that the person that brought that to you was Cullen Sheehan who was I think at the time the chief of staff for Amy Koch. Can you tell us exactly what it is that Sheehan told you that was so troubling to you?”

Sen. Michel: “Well, that basically what we had was an inappropriate relationship between a manager and an employee. That this was about a conflict of interest, and that this was creating a workplace environment, for staff and members, that could not stand. This was not a way to run the Senate, this was not a way to manage the institution. So that is what he shared with me. And then, subsequently, as time went on, we learned about this from other sources, from other staff, bringing kind of a similar, confirming story to it all.”

11. Senator Michel also stated in the December 31 Ron Rosenbaum interview what actions he took after being made aware of an alleged inappropriate relationship between the Senate Majority Leader and a subordinate senate employee, saying:

“I spoke to, literally within—maybe hours, for sure the next day—I spoke to people, staff within Secretary Ludeman’s office, and also sought some outside legal and H.R. help.”

12. In the December 31 Ron Rosenbaum interview, Senator Michel responded to questions relating to his actions after being made aware of an alleged inappropriate relationship between the Senate Majority Leader and a subordinate senate employee, in the following separate exchanges:

(a) *Rosenbaum:* “When Cullen Sheehan told you this, he also told you, I believe that he had confronted Senator Koch and the staffer about this, and they had admitted it. Am I accurate about that?”

Sen. Michel: “That’s a fair summary, Ron, and I would go on to include that my hope would have been that they would have—being on notice—that the Majority Leader would have done the right thing back in October.”

(b) *Rosenbaum*: “There’s two choices, one of which, you were hoping this thing would end on its own, or you were waiting for the kind of legal and professional advice that you had been seeking. Which one of those two—assuming those are the two choices—would it have been?”

Sen. Michel: “Well actually those are all true. We were gathering the legal and H.R. knowledge that we needed. And we were also trying to put together a group of members, knowing the staff conversation with the Majority Leader had not seemed to result in any change, we wanted to put together a group that could have that conversation again, member to member.”

13. On January 18, 2012, MinnPost published an interview with Senate Republican Caucus spokesperson, Steve Sviggum, which included the following passage:

“‘It was the cover-up part that was the problem,’ he [Sviggum] said, referring to Senate leadership's admission that they had changed their story of when they learned about Koch's personal relationship with a subordinate staff member. ‘Especially Republicans, it’s pretty tough not to live those values. Better walk your talk.’”

14. During Senator Koch’s tenure as Senate Majority Leader, Senator Michel served as Deputy Majority Leader, which includes a supervisory responsibility over senate employees.

15. Upon being made aware of an alleged inappropriate relationship between the Senate Majority Leader and a subordinate senate employee in September, 2011, Senator Michel had an obligation as Deputy Majority Leader to take appropriate action to fully and swiftly address the matter.

①6) Senator Michel brought the Minnesota Senate into dishonor and disrepute by failing to take appropriate action to fully and swiftly address the alleged inappropriate relationship between the Senate Majority Leader and a subordinate senate employee until its public disclosure was imminent.

①7) As Deputy Majority Leader, Senator Michel violated the accepted norm of senate behavior by failing to act swiftly to restore a safe working environment for senate employees after being made aware that the Senate Majority Leader was implicated in an inappropriate relationship with a subordinate senate employee.

①8) Senator Michel betrayed the public’s trust by making false and clearly misleading public statements regarding when he became aware of an alleged inappropriate relationship between the Senate Majority Leader and a subordinate senate employee, which he corrected only after being confronted with a contradictory statement by another party.

19. Senate Permanent Rule 56.1 states that "Members shall adhere to the highest standard of ethical conduct as embodied in the Minnesota Constitution, state law, and these rules."

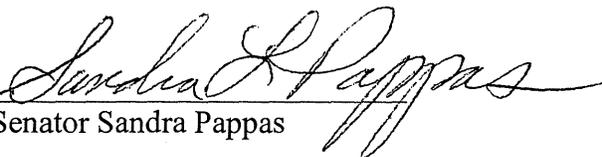
20. Senate Permanent Rules 56.3 provides the standard that "Improper conduct includes conduct that violates a rule or administrative policy of the Senate, that violates accepted norms of Senate behavior, that betrays the public trust, or that tends to bring the Senate into dishonor or disrepute."

21. It is your complainant's belief that Senator Geoff Michel violated Senate Permanent Rule 56.

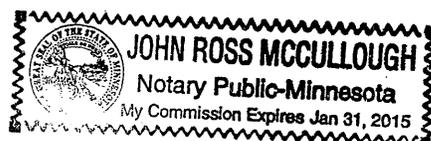
22. Your complainant asks that the Subcommittee on Ethical Conduct investigate the details of this matter. Your complainant respectfully requests that all hearings on this matter be open to the public.

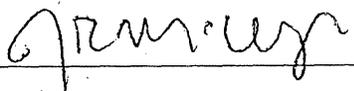
23. Your complainant asks that the Subcommittee on Ethical Conduct find that Senator Geoff Michel violated Senate Permanent Rule 56 and that it recommends such disciplinary action as the Subcommittee finds appropriate.

Date: March 19, 2012


Senator Sandra Pappas

Subscribed to, and sworn before me, a notary public, on March 19, 2012.





Senate Subcommittee on Ethical Conduct

Chair: Senator Michelle Fischbach

MEETING: Friday, March 23, 2012

Room 112 – Capitol

AGENDA

- I. Call to Order
- II. Discussion of procedure for probable cause hearing
- III. Presentation of complaint by Senator Pappas
- IV. Response to complaint from Senator Michel
- V. Subcommittee deliberation and consideration of complaint under Senate Rule 55.4
- VI. Adjournment

Rules and Administration Subcommittee on Ethical Conduct

Friday, March 23, 2012

12 Noon, Room 112, Capitol

Minutes

Present: Senator Michelle L. Fischbach, Chair, Senator John M. Harrington,
Senator Bill Ingebrigtsen, Senator Kathy Sheran

Absent: No Members Absent

Senator Michelle L. Fischbach called the meeting to order at 12:10 PM

**Probable Cause Hearing Regarding Complaint Filed by Senator Sandra Pappas against
Senator Geoff Michel.**

Senator Fischbach discussed the procedural process for the probable cause hearing.
Senator Fischbach allowed the subcommittee to ask any process related questions
Senator Sheran requested that the subcommittee have testifiers, if needed

Senator Fischbach swore in the witnesses, Senator Pappas and Senator Michel

Senator Pappas presented her complaint - a typed copy was distributed
Senator Fischbach allowed questions from the subcommittee - no questions were asked.
Senator Michel/ Mr. Bob Mayer had no questions for Senator Pappas

Senator Michel presented his response
Senator Michel responded to questions from Senator Pappas

Senator Fischbach reminded the subcommittee to tread carefully because of possible litigation
against the Minnesota State Senate

Senator Michel responded to additional questions from Senator Pappas

Senator Fischbach allowed questions from the subcommittee members

Senator Ingebrigtsen asks to remove Steve Sviggum's statement from Senator Pappas' complaint on
the basis that Mr. Sviggum was not a Minnesota Senate employee during the timeframe in question

Senator Pappas presented her rebuttal
Senator Pappas responded to questions from the subcommittee

Senator Michel and his Counsel (Mr. Mayer) presented their rebuttal
Senator Michel and his Counsel (Mr. Mayer) responded to questions from the subcommittee

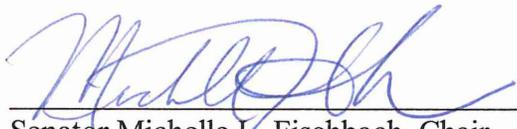
The subcommittee began deliberation of their decision
Senator Fischbach restated the question before the subcommittee

Senator Ingebrigtsen moved that the subcommittee find no probable cause.
MOTION FAILED

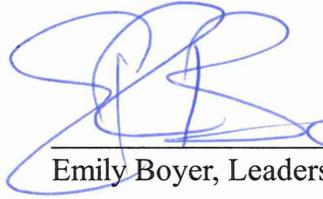
Senator Sheran moved that the subcommittee find probable cause.
MOTION FAILED

Senator Sheran moved that the subcommittee recess until after Session.
MOTION PREVAILED

The committee recessed at 2:35 PM



Senator Michelle L. Fischbach, Chair



Emily Boyer, Leadership Assistant

Chair Fischbach and members of the subcommittee,

Thank you for your prompt attention to this very serious matter and the opportunity for me to testify regarding the recent complaint I submitted pertaining to our colleague Senator Geoff Michel. It is my hope that a fair and comprehensive hearing on the facts of the case will bring about a resolution to this issue.

To begin, it is important to point out Senate DFL Leader Tom Bakk has repeatedly encouraged current Majority Leader David Senjem to restore the public's trust in our institution due to events surrounding the resignation of Senator Koch as the leader of the Senate. No resolution has occurred from these attempts, and since the legislative session is tentatively scheduled to adjourn in just over a month, this avenue is the sole means to address the matter.

I intend to verify Senator Michel violated Senate Permanent Rule 56 by providing multiple misleading and false public statements regarding when he became aware of an inappropriate relationship between former Senate Majority Leader and a subordinate staff member.

Senate Permanent Rule 56.1 states "Members shall adhere to the highest standard of ethical conduct as embodied in the Minnesota Constitution, state law, and these rules." Subsequently, 56.3 states "Improper conduct includes conduct that violates a rule or administrative policy of the Senate, that violates accepted norms of Senate behavior, that betrays the public trust, or that tends to bring the Senate into dishonor or disrepute."

On December 16 of 2011, Senator Michel held a press conference with Senators Senjem, Gerlach, and Hann to provide a public explanation for why Senator Koch had resigned her post as Majority Leader the day prior on December 15. Three of these senators, with the exception of Senator Senjem, along with Senator Robling, in their own admission, confronted Senator Koch regarding an inappropriate relationship between her and a senate staff member. This meeting took place on Wednesday December 14.

In the December 16 press conference, Sen. Michel repeatedly stated that his knowledge of this inappropriate relationship occurred weeks ago. Senator Michel states, "I've said weeks, that's certainly true from my, my personal knowledge"

and answers affirmatively when questioned if he learned about the affair about two weeks ago. He further suggests he confronted Sen. Koch with “all deliberate speed” to resolve the alleged inappropriate relationship.

These statements were contradicted in a public interview just five days later. Former chief of staff Cullen Sheehan stated in this interview, “three months ago, I became aware of a potential relationship between Senator Koch and a staffer.” Sheehan first learned of this relationship on September 21 and confirmed it with Senator Koch and the staffer. He also stated that he met with Deputy Majority Leader Geoff Michel the next day, on September 22.

Senator Michel confirmed this timeline in the same publication and the fact that it contradicted his public statements from December 16. Michel stated, “I felt at that time that if I said two months or whatever that exact number is, that that would have very obviously pointed out who the whistleblower was.”

Senator Michel is on record providing misleading and false statements on the pretense of protecting whistleblowers. However, he was under no compulsion to provide any information regarding a timeline of his knowledge of the alleged relationship, but instead Senator Michel decided to provide inaccurate information to the public.

Further, Sen. Michel indicated there were multiple whistleblowers and since corroborating Mr. Sheehan’s story on December 21, no additional whistleblowers have been publicly disclosed—nor should they be—as Mr. Sheehan came forward of his own volition.

The dissemination of misleading and false statements is not ethically justified due to the existence of whistleblowers and no exception to this matter is provided in Senate Rules. Anonymity is maintained by providing no information that might compromise whistleblowers, not inaccurate information as Senator Michel supplied to the public.

Secondly, as the Assistant Majority Leader, Senator Michel had an obligation as a leader of the Senate to swiftly address the alleged inappropriate relationship to maintain a safe working environment for Senate staff. He stated himself, “That kind of relationship is inappropriate, it raises a conflict of interest, and it creates

what we've talked about as an unstable, unsustainable work environment for our staff."

Since Senator Koch was implicated in the relationship, it was the responsibility of Senator Michel to ensure the situation was resolved in a timely manner. And while Senator Michel has stated that he spoke to senate human resources, it remains unclear who he spoke to in the Secretary of the Senate's office, whether he followed-up with the office in the ensuing 11 weeks before public disclosure, and why the unstable workplace environment was not resolved with "all deliberate speed."

The false and misleading statements provided by Senator Michel constitute a breach of the public's trust, and are unbecoming of a Minnesota senator. They tarnish the reputation of the body and bring into question its credibility, as well the individual senator's trustworthiness. It is improper conduct that violates the Senate's accepted norms of behavior and thus violates Senate Permanent Rule 56. Additionally, Senate Republican Caucus Spokesperson Steve Sviggum publicly stated the handling of the alleged affair between the months of September and December was a "cover-up." If this is the case, it is the responsibility of the subcommittee to find the truth.

Finally, I request that this committee—after confirming these facts and the violation of Senate Rules—require Senator Michel to fully address the circumstances surrounding his statements and compel Sen. Michel to publicly apologize on the Senate Floor for his actions. Thank you.

http://minnesota.publicradio.org/collections/special/columns/news_cut/archive/2011/12/truthfulness_is_early_casualty.shtml

Full Transcript of December 16th Senate GOP Leadership Press Conference:

Sen. Michel: "Alright, thank you for the last minute notice. We wanted to give you a little update given all the events of the last 48 hours, and I'll also start with an apology about my voice. I think if I keep it at about this strength it'll withstand. So, we're here today, with a lot of humility, and some sadness, and even shock. It's not been the kind of week we would've planned for, or wished for, and certainly not the reason that any of us ran for these offices to begin with, but having said that, we want to fill you in on some more of the details here. **So, over the course of the last several weeks, members of Senate staff, current Senate staff members, brought forward to at least two of us here at the table, some serious allegations of an inappropriate relationship between the majority leader and a senate staffer.** After, assessing our legal and ethical responsibilities, we did a number of things. We involved the Secretary of the Senate's office, again to determine, kind of, the legal boundaries that we needed to understand going forward, and then more importantly, well perhaps more importantly, last Wednesday evening, the four of us, except, excluding Senator Senjem who was on a bonding trip, but including Sen. Robling, sat down with Senator Koch. We felt it was our duty and obligation to bring forward what we had been hearing, again, from multiple sources, and bring it straight to the majority leader. In the course of that conversation, which was a difficult one, she brought up the potential of her own resignation. But I can't say that we left that meeting with any, any kind of understanding or agreement as to what the future was going to bring. But again, we thought that it was important and serious enough, given what people should expect from their elected officials. We do not want the Minnesota Senate to have that kind of conflict of interest. We don't want the Minnesota Senate to have that kind of a work environment for our employees and so that's why we felt we had to act. I can't stand before you today and suggest that we know all the facts, but those are the facts, and that is the conversation that we were involved in. I'll let some of these others fill in some of the blanks, but I'd also share with you we were nearly as surprised as all of you to see a resignation at the end of the day yesterday. We certainly thought it was something that she was considering, but we were given no notice and, again, took us all by some surprise too. I don't know is there some more that you'd like to...either of you guys...

Sen. Senjem: I would just offer in a couple of comments, that information that was received was obviously anguishing and painful and at the same time, as painful as it was, I think we decided collectively that we needed to move forward in a professional and strategic way, recognizing the responsibilities that we had, and frankly have to the Minnesota Senate. Again, not fun but, I think, we did what all of us feel was necessary and appropriate given the circumstances.

Sen. Gerlach: I'd like to say too, that it should be noted that at no time did the majority leader ever confess or admit anything nor deny anything to any of us here. She did want time to talk with her family, which is certainly very understandable and reasonable thing to do, and but I just wanted to make that point that nothing was admitted to us nor denied.



Sen. Michel: At least a couple other points then. You know, we, the members at this table, and indeed, the rest of our caucus, we think of Amy Koch as our sister. Every one of the folks here worked hard with her and for her. So we didn't go to that meeting feeling all excited and comfortable, and we don't come before you today feeling excited about it as well. Again, we want the Senate to be an open and transparent place. We want our staff, who work so hard and do so much for us, to be comfortable and to, frankly, to be able to come to us with this kind of information. And so we felt it was our obligation to move forward. So I appreciate the folks in here today, working with this kind of a subject with some sensitivity. We wish the best for Senator Koch and her family and believe we have really a succession plan in place. As you all know, we have a leadership team that has, we already met by conference call last night, we're ready to move forward. We have not picked a date yet for a caucus election but that will need to be done in the next two weeks, and we're prepared to move forward and get into January with what's going to be a very important session. We have a lot to do on a shorter calendar than usual. So, here we go. Thank you for coming at, with some short notice.

Reporter: Senator Michel, who is the Senate staffer, who is accused of having an improper relationship with Senator Koch?

Sen. Michel: Pat, we want to be as open as we can be, we want to disclose all that we can to you, but legally that's one of the things we cannot do at this point, is talk about individual names like that.

Reporter: Why? Are you afraid of a harassment lawsuit? What's the legal ramification?

Sen. Michel: We're comfortable, well, we're not comfortable but, we're comfortable talking to you about the member to member conversations that have been had this week, but when it comes to Senate staff and employees and human resources and legal issues, that is for the Secretary of the Senate's office.

Reporter: Is it a current staffer or former staffer?

Sen. Michel: It's a current staffer.

Reporter: Is Michael Brodkorb still the spokesperson for the caucus?

Sen. Michel: I believe so.

Reporter: You're the, now the temporary majority leader, so...

Sen. Michel: Interim

Reporter: Interim, sorry. Is he still, you have, obviously, you...

Sen. Michel: I don't know of any changes at this point.

Sen. Hann: I think he's on vacation today, I understand, but...

Reporter: Can you give any information about how long this was going on, how many reports have come forward, a little bit more detail about...?

Sen. Michel: Yeah, Jeff. I'd give you, I can share with you that we had multiple reports from staff to, to the members, and I couldn't speak to duration, I couldn't speak to, you know, what the facts are. I think in the end there are only two people who really know what kind of

relationship and how long that may have been happening. But it certainly had risen to a level within our Senate family that people were coming to us.”

Reporter: Did that staffer’s job, status, or title change during the time Senator Koch was majority leader? Did that staff member’s job position change during her tenure?

Sen. Michel: “I’m, again, I’m going to, as, I want to answer all of your questions as completely as we can, but I think answering those questions as you’ve put them, again, I don’t want to reveal specific names or identities at this point.

Reporter: What about the name? Is there a way to answer without the name? Status, promotion and demotion during her tenure.

Sen. Senjem: The answer is no.

Sen. Michel: We believe the answer is no, but I’d want to look into that further.

Reporter: Are you able to tell us how many complaints were filed, how many senators got complaints? How many people filed complaints, that kind of thing?

Sen. Michel: I think at this point, Pat, you know, another piece of the legal side of this is that those multiple staff who came forward, they fall into some kind of protected class. We actually have a whistleblower law in Minnesota and...So, I’m not sure if that was a complete answer for you, Pat.

Reporter: The number of complaints that were filed? Can you give us that?

Sen. Michel: More than one.

Kessler: More than one?

Reporter: Was there a Senate rule or a law broken in your opinion here? What makes it inappropriate under the law?

Sen. Michel: I guess I would say it this way, Don. There is no doubt that a manager cannot have such a relationship with a direct report. There is no doubt that a manager cannot have such a relationship with someone who they oversee, whose budget they oversee. You know, we talked about potential promotions, so I couldn’t quote you statute and verse, but you know, whether it’s the public sector or the private sector it’s pretty clear. That kind of relationship is inappropriate, it raises a conflict of interest, and it creates what we’ve talked about as an unstable, unsustainable work environment for our staff, for our staff, so that is why we moved forward and walked down this path. We had very...I’m not sure we could’ve predicted forty eight hours ago where this would end, we had no such plans, but we thought we had to raise this.”

Reporter: And to be clear, it was Wednesday night of this week?

Sen. Michel: Yes, sir.

Reporter: Is this a GOP caucus staffer?

Sen. Michel: I’m going to be careful again. And I’ve, what I’m comfortable saying is multiple staffers.

Reporter: But I mean, the person having the inappropriate relationship with the senator, that was a GOP caucus staffer?

Sen. Michel: I think I’ll give you the same answer there; it was senate staff.

Reporter: How did she react? Senator Gerlach mentioned that she did not confirm nor deny, how did she react when she was confronted by her colleagues in a meeting with these kinds of allegations?

Sen. Michel: It was a long and tough conversation, Pat. We're, we've been through a lot together, we've all, again, think of each other as family, so I'm not sure I'd characterize it any other way.

Reporter: Is it appropriate for her to remain in the senate? Could there be ethics charges if it was an inappropriate relationship with a subordinate?

Sen. Michel: I think, I don't know. I don't know, Rachel, I guess I'd say she's probably got some more thinking to do about her future and leave it at that.

Reporter: Have any of you spoken to her since that Wednesday night meeting?

Sen. Michel: No, well, I have not.

Sen. Hann: I have.

Reporter: Did she give you any more insight into her decision at all?

Sen. Hann: No.

Sen. Gerlach: The discussion Wednesday night was not entirely inclusive as I said, in somewhat answer to Pat's question, the reaction is like any human being would react, and that is concern for her family was utmost in her mind, I think, and as such she needs some time, and so, yeah, the following morning discussions continued, and that was left at that, and then the resignation came later. None of us were informed that that was imminent yesterday afternoon and it did catch us all off guard.

Reporter: And to be clear, at the Wednesday night meeting, did, was the tone one of you should resign from the majority leader post? Did you advise her to do that?

Sen. Michel: That was actually a word that she brought up first. I'm not sure I would characterize a tone. We just said we have some serious issues that we need to raise with you and need to understand what is going on.

Reporter: Do you all think she made the right decision by resigning the post?

Sen. Michel: I guess I would say yes.

Sen. Gerlach: I, I do.

Sen. Hann: Yeah, I do.

Reporter: To be clear, when you raised the allegations of a sexual, inappropriate sexual relationship, she didn't either confirm or deny? Did she say anything about that or?

Sen. Hann: She did not get into any discussion of the relationship at all. Her response to the conversation, as we talked about that was, as Senator Michel said, I think I need to consider resigning.

Reporter: Did you use inappropriate sexual relationship? What phrase are you using here?

Sen. Michel: I think the questioner used that word. We do not—I think there's only two people who could fully clarify that or characterize it. And that was not how we broached this topic with her and, again, this goes back to a manager and an employee.

Reporter: Have you folks talked to the employee about this?

Sen. Michel: Again, that is falling, kind of, into the senate human resources, into their jurisdiction, and so that would be, the Secretary of the Senate, Mr. Ludemann and his office.

Reporter: Are you saying you have not talked to this person?

Sen. Michel: I have not.

Sen. Hann: I have not.

Sen. Senjem: I have not.

Reporter: I'm sorry; you've used the term inappropriate relationship. Some of us have heard there was an affair between two people who were married to two other people. Was that the conversation that you had with the majority leader?

Sen. Michel: Why don't you repeat that, Rachel, you had a lot in there.

Reporter: "Was this a sexual affair?"

Sen. Michel: "I don't know. I don't know how I could know that."

Reporter: Well was that what you discussed with the majority leader?

Sen. Michel: Again, our focus was on a manager and someone who is either supervised by or directly reports to this person, and again, the conflict that creates, the work environment that creates, the apparent discomfort among staffers that it had created and that people were bringing to us.

Reporter: But was that the merits of the complaint brought to you, that there was an inappropriate sexual relationship going on between Senator Koch and someone else?

Sen. Michel: I don't think I ever heard that word used, Tom.

Reporter: But no one ever said there was a sexual issue going on?

Sen. Hann: Nobody said that to me. I did hear from members of the staff who talked about the, what they described as an inappropriate relationship that affected their job.

Reporter: Could you describe what other types of relationships you would consider inappropriate, other than a sexual one?

Sen. Michel: I don't know if I could divide it up in that fashion.

Sen. Senjem: I don't think we need to go down that road.

Reporter: Everybody is going to infer, I shouldn't say everybody, but I would guess, that there is an inference.

Sen. Michel: Jeff, there's only two people, alright, who could understand and clarify and answer that for you. The information that was brought to us was enough for us, to think that, on behalf of the Senate, and on behalf of our staff, that we needed to address it. So we didn't get into characterizations or anything more specific than that.

Reporter: Looking back did you ever think that, I mean you said that next year, any red flags pop up?

Sen. Michel: No.

Reporter: So you folks did not know about this relationship before the staff came to you?

Sen. Michel: Correct.

Reporter: Did Senator Koch know what the meeting was about, Wednesday night prior to the meeting? Or did she learn just when she came to the meeting what you wanted to talk to her about?

Sen. Hann: I think she was there for another meeting at the location and we joined her at the conclusion of that meeting, and I don't think she was anticipating meeting with us at that point.

Reporter: And it was just you four at the meeting?

Sen. Hann: Senator Senjem was not at the meeting, he was on a bonding trip with Senator Robling. And Senator Gerlach, myself, and Senator Michel.

Reporter: "You said that you had been hearing about this for some weeks, why did it take you that long if this possibly has legal ramifications...? **Sen. Michel: "I think it's, it's depending on the member. I've said weeks, that's certainly true from my, my personal knowledge as, as people approached me, and I was doing some, again, some immediate checking with, on the human resources, and the legal issues with this, and then reached out to some of my colleagues here on the leadership team."**

Reporter: As far as you know is Senator Koch still married?

Sen. Michel: I couldn't speak to that. I don't know. I believe so.

Reporter: So could be tell me why this staffer is still employed by the Senate? What's the grounds for this staffer, who is unnamed, why that individual is still employed by the Minnesota Senate right now? Are they going to be coming back to work tomorrow, or Monday, or Tuesday, or whenever?

Sen. Michel: Well again, Tom, the individual senate staffer has, that issue, has been referred to the Secretary of the Senate's office.

Reporter: So if we run upstairs to the Secretary of the Senate, and said, you know. I'm just trying to figure out why is it that there is a staffer who may have had inappropriate contact, which you guys are all saying are concerned about, would still be working for the Minnesota Senate, come Monday, Tuesday, whenever?

Sen. Michel: Well and again, we should be clear, our conversation with Senator Koch was about the potential impropriety of that from the manager's standpoint, right, from the member of the Senate, from indeed a leadership member of the Senate. You know, none of us our perfect, we don't claim to be, but we want to be proud of the Minnesota Senate. **We want to be proud of how it's run, and we understand that's a special obligation on those of us to maintain the highest standards."**

Reporter: Sen. Michel, are you concerned at all about liability issues, if it is indeed an employer/employee relationship with a subordinate? Are you concerned that the Senate is at legal risk?

Sen. Michel: "I think there's potential legal risk, and that was another reason for us to go with all deliberate speed to Senator Koch, to have this conversation. That definitely was one of our concerns."

Reporter: Can you tell us what people should think about the Minnesota Senate? What are you trying to do here and why? What's the reputation of the Minnesota Senate?

Sen. Michel: Well, I'm not sure. But, we, I hope, it's that they deal with some errors, or some mistakes, in an open and transparent way, and that we move forward because we've got a lot of other things we should be working on, right Pat? I was struck the other day that the monthly jobs report came out and it's probably more important for us to focus on the 13,000 Minnesotans who just lost their jobs, than the career of any one or five state senators. We need to get back to working on our legislative agenda and 2012 is going to be an important year.

Reporter: You've sat there this afternoon, and said you're concerned, and you want people to know about what the Minnesota Senate is, and you're trying to do the right thing.

Sen. Michel: Trying to do the right thing, Pat.

Reporter: And so, is it right for a senator who has been accused of an inappropriate relationship to not be brought up on ethics charges?

Sen. Michel: I don't have a complete answer for you, Rachel, when it comes to, I guess the Senate Ethics Committee. Again, things have been moving pretty fast this week.

Reporter: What does this do to the credibility of the GOP leadership?

Sen. Michel: Well, it's probably not our finest week. We get that. But we're willing to stand here in front of you, and in front of our staff.

Sen. Senjem: Can I say this though, Jeff, and I probably said it earlier? From moment one, when we four gathered, due diligence was the absolute mantra. As painful as this all is, we committed ourselves to doing what we thought the right thing was, regardless of the pain. Quite obvious, this is painful for all of us. But to not take that very appropriate, professional approach to this would have been wrong, and we committed ourselves to do it the right way.

Reporter: Are any of you interested in serving as leader?

Sen. Hann: I don't know that we want to talk about that at this point.

Sen. Senjem: We don't want to talk about things like that.

Sen. Michel: I was just going to add, before we get into the horse race, I actually look at this from another angle as well. I think it would have been a dereliction of our duty as members of the present leadership team to not advance down this road, to not have this conversation with the majority leader, to not work with the Secretary of the Senate's office. Given what we were presented, that was our obligation and so, again, this is not the week that we had planned out, but I think we're comfortable, not happy, but we're comfortable with what we've done, and how this has been handled today."

Sen. Gerlach: Initially, the reaction is well, what do you do with something like this. And it was very clear with an automatic consensus that, number one, is we do what's right, number one, we do it with speed and professionalism, and then also, sensitivity to the privacy of innocent people involved, people who may have come forward and those sorts of things. And although, regardless of how uncomfortable it may be, it is not comfortable for any of us to be here right now, but it's part of this process that we're going down, because it's right, doing it quickly, doing it professionally, and we want to get it done and then move on.

Reporter: Do you believe an ethics investigation would be in order of Senator Koch?

Sen. Michel: Again, we haven't completed that kind of analysis. **We're working on about the same calendar as you guys are.**

Reporter: Quick answer; is it right to assume this is a male staffer?

Sen. Michel: "It is right to assume that."

Reporter: And did you notify Senator Koch that you were talking to us this afternoon? Will this be a surprise?

Sen. Michel: Again, I'm not sure whose, we've had very little contact with Senator Koch since yesterday morning, or since her statement, so, again, our prayers are with her and her family, what I'm sure must be very difficult times.

Reporter: Does this staffer oversee anyone in the Minnesota Senate and are there any concerns about that?

Sen. Michel: I think I'm going to have to fall back, Tom. We want to be careful about revealing any specific names right now given the nature of this.

Reporter: How many people directly report to the senator?

Sen. Michel: To the senator? Well, I think you could make the argument that the entire senate does, but at least the caucus.

Reporter: You said this was a direct report.

Sen. Michel: Again, I think you could almost make that argument that the Senate is like a--this is the majority leader at the top of the pyramid, the leader, the chair of the Rules Committee, and in charge of all personnel and budgets. So it would be hard for me to distinguish between a senate employee who the senate majority leader is not the boss.

Sen. Senjem: And frankly, not to get too deep, but frankly our bylaws reflect that; the leader is the ultimate manager of the caucus.

Reporter: Based on the complaints you've heard, can you give an example or two of how this was getting in the way of Senate performing its business? How folks felt it impeded their work?

Sen. Michel: I wouldn't be comfortable giving, again, I trying to protect the privacy of those who may have come forward and want to be careful with that.

Reporter: Was the inappropriate behavior at the Capitol?

Sen. Michel: I can't speak to that because I would say I don't know.

Reporter: ... You haven't told us how many complaints you've received. Can you give us some type of idea? Are you talking about two complaints, a hundred complaints, can you give us some type of an idea of how widespread these complaints were that you received?

Sen. Hann: What I would say is that it doesn't really matter how many, but that there were, from different sources. So it's not just one complaint but if you have just one complaint, one allegation, I think you have a duty to investigate, if you believe it's credible. And there was more than one and from more than one person.

Reporter: And the complaint was that this created a hostile work environment? That this created favoritism?

Sen. Hann: It created an environment in the workplace that was not conducive to the work that needs to be done. It creates conflicts of interest. It's creates perhaps un-clarity about what responsibilities might be. There's just a host of things that can happen in that type of situation.

Reporter: Had the senator not been in a leadership role, would any of this had happened? If you had gotten complaints about a senator, would you have let that be their business, not in a leadership role, or would you have talked to them too? What would have happened in that case?

Sen. Michel: We would've talked to them too. Yes. No difference.

Sen. Senjem: Rules don't differ.

Reporter: Besides the five senators you have mentioned, the four of you and Robling, how many other senators knew about this, or at least, part of you the group discussing this? Was there a lot or just the five?

Sen. Hann: To our knowledge, just the five of us were the only people that were aware, and the only senators that went to the majority leader to get her confirmation or denial of what we had learned.

Reporter: And when you say five, you mean also Senator Robling too, right?

Sen. Hann: Senator Robling was in the meeting on Wednesday, Senator Senjem was not, but Senator Senjem was aware.

Reporter: There's another assistant majority leader—

Sen. Michel: There's two others.

Sen. Hann: There's two others.

Reporter: Why were they not involved in this?

Sen. Gerlach: How many does it take?

Sen. Michel: I think somewhere between the need to act on this quickly, so we felt we had enough, we felt we had, you know, we didn't want to overwhelm in that first conversation with a huge crowd.

Reporter: So were the two other assistant majority leaders aware of this?

Sen. Michel: I don't believe they're aware.

Reporter: Did each of the five of you receive, or was it just one of you, and you brought in the others? How did that work?

Sen. Michel: More than one of us and more than one complaint, again, not trying to dance around that Don, but we want to be sensitive to those employees who came forward.

Davis: I'm not asking employees' names yet. But for senators, how many of you here received complaints directly?

Sen. Michel: More than one.

Reporter: And the first complaint was about two weeks ago?

Sen. Michel: Yes. The days are starting to meld into each other here, Rachel, but...

Sen. Senjem: May I offer, just before we , and I don't know if we're finished, we don't have to be finished but, this is a painful experience for all of us, absolutely all of us, all involved. I think without question our love and respect for Senator Koch remains and remains strong, and certainly will remain. The senate is a family. It is and probably always will be. And so, again, these are painful times, but, we, I think all collectively, within our caucus are going to work with Senator Koch and support her in every way, and there will be a brighter day ahead.

Sen. Michel: Thank you all for coming on short notice here.

New Senate aide Steve Sviggum says he'll fight to keep his regent post, too

By Cyndy Brucato | 01/18/12

Steve Sviggum sees no conflict between his new job at the Minnesota Senate and his seat on the University of Minnesota Board of Regents and says he will fight to keep the regent's post even as the board launches a review.

"That's very disturbing and surprising," Sviggum said of the regents' intent to evaluate whether his new job as the executive assistant and communications director of the Senate's Republican majority caucus conflicts with his duties as regent.

"I spoke to the board's counsel, executive director, chair and vice chair [about the job possibility]. I was thrown under the bus before, so I wanted to cover the bases," he said, referring to a board decision earlier this year that Sviggum could not simultaneously be a regent and hold a position at the U's Humphrey School of Public Affairs.



Steve Sviggum

This time, Sviggum said in an interview with MinnPost, he asked them their opinion about a series of hypothetical jobs, including as an employee of the Legislature.

He recounted a conversation with board chair Linda Cohen in which he said they agreed those kind of employees are not decision-makers and, hence, pose no conflict. Cohen's comment, according to Sviggum, was "'Precisely.' "

University board reviewing Sviggum arrangement

Nevertheless, in a Tuesday statement, Cohen said, "The Board will carefully consider this situation under the terms of its Code of Ethics and determine what steps are necessary to take in the best interest of the Board and the University."

Sviggum said he will not volunteer to give up the unpaid regent post.

"I would not have applied for the Senate job if I had to leave the Board of Regents," he said. Sviggum views the board as possibly the most important economic development tool for the state after the governor. "I really believe it's the opportunity for public service," he said.

Public service is the reason Sviggum says he took the Senate position.

Senate Majority Leader Dave Senjem, his longtime friend and colleague, offered him the hybrid executive-communications job last Friday and Sviggum accepted on Monday.



Senate Majority Leader Dave Senjem

"Senjem convinced me this was a good place for me," he said. "I represented the kind of change the caucus needed."

"Restoring the credibility" is how Sviggum describes his new duties. "The Senate lost a month, maybe even six weeks, of taking a good message to the people of the state," he said of the drama that surrounded the ouster of Amy Koch as majority leader and the firing of the man he's replacing, Michael Brodkorb.

At age 60, with an over-stuffed political portfolio, Sviggum doesn't assume false modesty. "One of the things the Senate was interested in is that I have been there and done that," he said.

Yes he has. Sviggum has run for governor, led the Minnesota House as speaker, ran his Republican caucus as minority leader and, under Gov. Tim Pawlenty, served as commissioner of the Department of Labor and Industry and the state's budget office. So perhaps it was inevitable that one of those jobs would clash with another.

New role for political veteran

Even without the possible conflict with the Board of Regents, Sviggum's appointment drew attention well beyond the usual level for a legislative staff position. He acknowledges that going from boss to hired hand will require mental gymnastics.

"I have to continually remind others as well as myself, I work for the Republican majority caucus," he said.

Just add the identity issues to the list of challenges that Sviggum takes on in his new job. "The

challenge is to get the Senate to be a team," he said after the turmoil created by the Koch demotion.

"I was crushed at the developments that occurred," he said. "It was the cover-up part that was the problem," he said, referring to Senate leadership's admission that they had changed their story of when they learned about Koch's personal relationship with a subordinate staff member. "Especially Republicans, it's pretty tough not to live those values. Better walk your talk."

He describes Koch as "a wonderful leader and shining star. I'm going to assume that we are good; we are going to be OK."

Like any politician with long service, Sviggum has enemies, but he has a longer list of friends. "I have very good relationships," he said.

They will be tested. There's already a tangle of reporting responsibilities, because as executive assistant and communications director, Sviggum is a peer with chief of staff Kevin Matzek. Sviggum says the caucus is still sorting out some responsibilities and organization.

Outside the caucus, Sviggum likely will call upon old Capitol friends and colleagues as the Senate, House, and governor wrangle over bonding, the stadium, and what Sviggum describes as the No. 1 priority — government redesign and reform.

On those issues and more, he expects that the senators, who are his bosses, will turn to him and ask, "What would Steve do?" He says that he will give that advice only upon request.

As with his stand on the Board of Regents position, Sviggum invokes his new mantra, "I have to appropriately and respectfully remind myself that the senators are my bosses. I'm not the decision-maker."

P POS

Sen. Michel's statements vs. the facts

Sept. 22: Senate Chief of Staff Cullen Sheehan informs Sen. Michel of "an inappropriate relationship" between Senator Koch and a Senate staff member.^{1,2,3}

Dec. 16: Sen. Michel states that he became aware of an "inappropriate relationship" between Sen. Koch and a subordinate staffer two weeks ago.⁵

Dec. 14: Sen. Michel and other GOP senators confront Sen. Koch regarding relationship⁴

Dec. 21: Mr. Sheehan states he informed Sen. Michel of the affair in late September. Sen. Michel confirms he provided a false timeline.²



2011

¹Holding Court with Ron Rosenbaum. AM 1130. <http://tunein.com/radio/Holding-Court-with-Ron-p153122/>

²Scheck, Tom & Richert, Catharine. *Former top Koch staffer raised concerns about her conduct months ago*. Minnesota Public Radio. <http://minnesota.publicradio.org/display/web/2011/12/21/koch-staffer/>

³Helgeson, Baird, et al, *Koch apologizes for relationship* Star Tribune, December 22, 2011

⁴Helgeson, Baird & Ragsdale, Jim, *Secret GOP meetings spelled Koch's end as majority leader*, Star-Tribune, <http://www.startribune.com/politics/statelocal/135901723.html>

⁵Collins, Bob. *Credibility is early casualty in Koch probe*. Minnesota Public Radio. http://minnesota.publicradio.org/collections/special/columns/news_cut/archive/2011/12/truthfulness_is_early_casualty.shtml

27.1 The executive session must be limited to matters relating to probable cause. Upon a finding of
27.2 probable cause, further proceedings on the complaint are open to the public.

27.3 55.6 The subcommittee may appoint special counsel to provide expert advice on how
27.4 to conduct its proceedings. The subcommittee may appoint a suitable person to conduct the
27.5 investigation and report findings of fact and recommendations for action to the subcommittee.

27.6 55.7 If, after investigation, the subcommittee finds the complaint substantiated by the
27.7 evidence, it shall recommend to the Committee on Rules and Administration appropriate
27.8 disciplinary action.

27.9 55.8 To minimize disruption of its public proceedings, the subcommittee may require that
27.10 television coverage be pooled or be provided by Senate media services.

27.11 55.9 If criminal proceedings relating to the same conduct have begun, the subcommittee
27.12 may defer its proceedings until the criminal proceedings have been completed.

27.13 55.10 The Senate intends that proceedings of the Subcommittee on Ethical Conduct not be
27.14 admissible in any criminal proceeding.

27.15 **56. STANDARDS OF ETHICAL CONDUCT**

27.16 56.1 Members shall adhere to the highest standard of ethical conduct as embodied in the
27.17 Minnesota Constitution, state law, and these rules.

27.18 56.2 A member shall not publish or distribute written material if the member knows or
27.19 has reason to know that the material includes any statement that is false or clearly misleading,
27.20 concerning a public policy issue or concerning the member's or another member's voting record
27.21 or position on a public policy issue.

27.22 56.3 Improper conduct includes conduct that violates a rule or administrative policy of the
27.23 Senate, that violates accepted norms of Senate behavior, that betrays the public trust, or that tends
27.24 to bring the Senate into dishonor or disrepute.

27.25 56.4 Members of the Senate shall disclose potential conflicts of interest in the discharge of
27.26 senatorial duties as provided in Minnesota Statutes, section 10A.07.

27.27 **57. LOBBYISTS**

27.28 57.1 A lobbyist shall not appear before a Senate committee pursuant to the lobbyist's
27.29 employment unless the lobbyist is in compliance with the law requiring lobbyist registration,
27.30 Minnesota Statutes, sections 10A.03 to 10A.06. A lobbyist, when appearing before a committee,
27.31 shall disclose to the committee on whose behalf the lobbyist speaks and the purpose of the
27.32 lobbyist's appearance.

28.1 57.2 A lobbyist shall not knowingly, either directly or through a third party, furnish false
28.2 or misleading information or make a false or misleading statement that is relevant and material to
28.3 a matter before the Senate or any of its committees when the lobbyist knows or should know it
28.4 will influence the judgment or action of the Senate or any of its committees or subcommittees.

28.5 57.3 The Subcommittee on Ethical Conduct shall investigate a complaint by a member of
28.6 the Senate in writing under oath received before adjournment sine die in the last year of a Senate
28.7 term or during a special session held after that time that a lobbyist has violated Rule 57.1 or 57.2.
28.8 The investigatory procedures of Rule 55 apply, except as provided in this rule. The complaint
28.9 and proceedings on the complaint are private until the subcommittee has found probable cause to
28.10 believe that a violation of Rule 57.1 or 57.2 has occurred, unless they are made public by the
28.11 lobbyist whose conduct is the subject of the complaint or by the vote of at least three members
28.12 of the subcommittee.

8.13

58. AMENDMENTS TO RULES

28.14 Every proposition to amend a rule of the Senate must be referred to the Committee on Rules
28.15 and Administration. The proposition may not be acted upon until the report of the committee
28.16 is received by the Senate.

Senate Subcommittee on Ethical Conduct

Chair: Senator Michelle Fischbach

Meeting: Tuesday, April 17, 2012

10:00 AM

Room 107 – Capitol

AGENDA

- I. Review of Previous Hearing
- II. Discussion of Legal Proceedings
- III. Recommendations by Parties for Further Subcommittee Action
- IV. Subcommittee Discussion of Further Action

Rules and Administration Subcommittee on Ethical Conduct

Tuesday, April 17, 2012

10:00 AM, Room 107, Capitol

Minutes

Present: Senator Michelle L. Fischbach, Chair, Senator John M. Harrington, Senator Bill Ingebrigtsen, Senator Kathy Sheran

Absent: No Members Absent

Senator Michelle L. Fischbach called the meeting to order at 10:06 AM

Continuation of the Probable Cause Hearing

Senator Fischbach reviewed the previous ethics hearing on Friday, March 23, 2012.

Senator Fischbach discussed the possible pending litigation and provided the option to subcommittee members to bring Ms. Dayle Nolan to the subcommittee for further information.

Senator Fischbach allowed Parties to provide recommendations.

Senator Pappas requested a letter of apology to be read on the Senate Floor by Senator Michel
Senator Fischbach allowed Senator Ingebrigtsen to question Senator Pappas but reminded members that the subcommittee should not be searching for further testimony.

Senators Sheran and Harrington questioned Senator Pappas

Senator Sheran offered that Senator Pappas speak with Senator Michel about reaching an appropriate resolutions.

Senator Pappas concluded that it was inappropriate to speak with Senator Michel after a complaint had been filed with the Ethics subcommittee.

Senator Michel recommended that the subcommittee revise and update all Human Resource rules and procedures regarding "appropriate relationships".

Senator Fischbach allowed questions from the subcommittee.

Senator Fischbach allowed the subcommittee the opportunity to discuss further action.

Senator Harrington moves to investigate probable cause within a date certain no later than 15 days.
Mr. Bottern, Senate Counsel, provided advice.

Mr. Mayer, Senator Michel's counsel, questioned the actions that are allowed in Senate rule 55.

The subcommittee discusses the option of proceeding in an executive session.

Senator Harrington renewed his motion

MOTION FAILED

Senator Sheran discussed a conflict of interest regarding how she is allowed to operate on the subcommittee, primarily regarding the "execution of senatorial duties".

Senator Ingebrigtsen moved to defer further action until possible legal proceedings have been resolved.

Senator Sheran calls the question.

MOTION PREVAILED

Senator Ingebrigtsen renewed his motion

MOTION FAILED

Senator Fischbach asked for further recommendations

Mr. Mayer, Senator Michel's counsel, asked if Senator Pappas is able to withdraw her written complaint.

Tom Bottern provided advice on the use of executive session and possible legal proceedings.

Senator Sheran moved that the subcommittee recess until 7 PM or 30 minutes after Session adjourns.
MOTION PREVAILED

Subcommittee Recessed at 12:25 PM

Senator Fischbach reconvened the subcommittee at 7:08 PM.

Senator Fischbach recessed the subcommittee until 8:00 PM

Senator Fischbach reconvened at 8:14 PM

Senator Fischbach reviewed the previous deadlock and opened up the subcommittee for further discussion.

Senator Harrington proposed viewing the tapes from the press conference held by Senator Michel.

Mr. Mayer, Senator Michel's counsel, questioned Senator Pappas' Minnesota Public Radio transcript.

Senator Fischbach allowed discussion on whether the subcommittee can find probable cause.

Senator Ingebrigtsen moved the subcommittee adjourn.

Senator Fischbach explained what adjournment would mean.

Senator Sheran wanted to express that by adjourning we are not finding no probable cause.

Senator Ingebrigtsen renews his motion.

MOTION FAILS

Members discussed what the result would be in reconvening at a later date.

Senator Pappas reiterated her request for a letter of apology from Senator Michel and her willingness to review the letter prior to its public release.

Senator Michel stated that he did not request this type of forum.

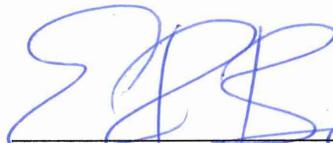
Senator Sheran moves to adjourn to the call of the chair.

MOTION PREVAILED

The meeting was adjourned at 9:57 PM



Senator Michelle L. Fischbach, Chair



Emily Boyer, Leadership Assistant

DFL senators file ethics complaint against Geoff Michel for handling of Koch scandal

by Briana Bierschbach

Published: March 19th, 2012



Sen. Geoff Michel and Sen. Amy Koch (Staff photo: Peter Bartz-Gallagher)

DFL senators have filed an ethics complaint against retiring Republican Sen. **Geoff Michel** for fudging the timeline of his knowledge of an affair between former Senate Majority Leader **Amy Koch** and staffer **Michael Brodkorb** to allegedly protect a whistleblower.

DFLers say Michel, who was serving as interim majority leader after Koch resigned from her position in December, told reporters at a news conference that he first heard staff complaints regarding Koch and Brodkorb's relationship just two weeks earlier. But former Senate GOP caucus Chief of Staff **Cullen Sheehan** later told MPR news he had approached Michel about the relationship in

September, or about three months prior to the news conference.

Michel later confirmed to reporters that he had heard about the relationship in September, but said he was trying to protect the identity of Sheehan, who had recently resigned from his Senate position to take a lobbying job.

In the ethics complaint signed by Sen. **Sandy Pappas**, DFLers say Michel failed to act quickly enough to restore a "safe working environment" for senators, "betrayed the public's trust" by reporting an inaccurate timeline to the media and brought the Senate into "dishonor and disrepute."

In a statement, Michel said the move is "about politics and payback and has nothing to do with ethics."

"The DFL wants a few more headlines. The conflict of interest has been resolved. The workplace environment has improved," he said. "And, we did this while protecting whistleblowers and staff. I have asked for an immediate hearing to resolve this matter."

Various senators and staffers are quoted in the [six-page complaint](#), including Sheehan and Senate GOP communications head **Steve Sviggum**, who was brought in to replace Brodkorb after he was fired from the position.

Michel served as deputy majority leader in the Senate until December, when the Senate GOP caucus elected an all-new team in the wake of the Koch scandal. In early March, the Edina senator announced plans to retire from the chamber after 10 years in office.

Complete URL: <http://politicsinminnesota.com/2012/03/dfl-senators-file-ethics-complaint-against-geoff-michel-in-wake-of-koch-scandal/>

DFLers file ethics complaint against Sen. Geoff Michel

- Article by: RACHEL E. STASSEN-BERGER
- Star Tribune
- March 19, 2012 - 11:56 PM

A pair of DFL legislators on Monday charged that a top Senate Republican lied about his knowledge of an affair between a staffer and former Senate Majority Leader Amy Koch and brought the Senate into "dishonor and disrepute."

In an ethics complaint filed against Sen. Geoff Michel, the former deputy Senate majority leader, the Democrats raise charges stemming from Republicans' handling of Koch's relationship with former staffer Michael Brodkorb. In December, announcing Koch's decision to resign from her leadership post, Michel said he had only recently learned of the relationship, but he later admitted he had known about the relationship for months.

Michel, an Edina Republican who lost his leadership post in the wake of the episode, said the complaint is "about politics and payback and has nothing to do with ethics. The DFL wants a few more headlines."

Said Senate Minority Leader Tom Bakk, DFL-Cook: "It appears like he was trying to execute a coverup."

The complaint will require the Senate to hold a hearing and renews public scrutiny of a period of turmoil that Republican legislators have said they wish to put behind them. Last week, lawyers for Brodkorb, who was fired after Koch's resignation, raised the specter of interviewing all current and former legislators who have had affairs with staffers to prove his allegations of wrongful termination.

In mid-December, Michel and other senators confronted Koch about rumors of her affair with Brodkorb, who was her subordinate. She resigned, and Michel found himself in charge of the Senate majority caucus.

The day after Koch's resignation, Michel and other senators held a news conference to air the charges that Koch quit because of an "inappropriate relationship" with a staffer. The next week, he admitted he had known about it since September of last year.

Michel and Senate Majority Leader Dave Senjem, a Rochester Republican who got his job after Koch resigned, said on Monday that Michel did nothing wrong. "Senator Michel acted in a forthright and, I think, a professional fashion as I think everybody ... involved in that incident did," Senjem said. "He does not deserve to be before an ethics committee."

Not seeking re-election

Senjem said Bakk knew the circumstances surrounding the incident and that filing a complaint now is "pure politics."

Michel, who has since announced he will not seek re-election, said he wants the issue resolved quickly, with an immediate review by the Senate subcommittee on Ethical Conduct, which will determine its merits.

For months, Senate Democrats have raised the possibility of an ethics complaint against Michel. Bakk and Sen. Sandy Pappas, a St. Paul DFLer who signed the complaint, said they waited to file the charges until they were sure that Republicans did not plan any follow-up of their own.

Bakk and Pappas said Michel should publicly apologize on the Senate floor. Such acts of contrition are not unheard of in the Legislature. In 2006, then-Senate Majority Leader Dean Johnson, DFL-Willmar, apologized on the Senate floor to settle an ethics complaint lodged over incorrect statements he made about the state Supreme Court's intent to act on gay marriage issues. Michel was one of the signers of that complaint.

The Democrats said they had no complaint against Koch, who admitted to a relationship with a staffer, because she had been punished enough.

"Senator Koch has already paid a significant price ... I think that would probably appear like piling on," Bakk said.

Staff writer Jennifer Brooks contributed to this report. Rachel E. Stassen-Berger • Twitter: @rachelsb

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Why did Michel wait before dealing with Brodkorb-Koch relationship?

By Cyndy Brucato | 09:42 am



MinnPost photo by Terry Gydesen

DFL state Sen. Sandy Pappas wants to know why former Deputy Senate Majority Leader Geoff Michel, left, waited to take appropriate action in addressing the affair between state Sen. Amy Koch, center, and Michael Brodkorb, right.

In her ethics complaint, DFL state Sen. Sandy Pappas wants to know why former deputy Senate majority leader Geoff Michel waited “to take appropriate action to fully and swiftly address the alleged inappropriate relationship between the Senate majority leader and a subordinate Senate employee until its public disclosure was imminent.”

The answer may lie in a timeline of events that led some Senate Republicans to initially stall -- hoping for a quiet resolution -- then take sudden action after they concluded that further delays in dismantling the powerful Michael Brodkorb-Amy Koch alliance would be result in political embarrassment.

The timeline goes back to Sept. 21, the date that former Senate GOP caucus Chief of Staff Cullen Sheehan says he confronted the pair, who admitted but did not end their relationship. Sheehan, by one account, was almost tearful about the problem he could not solve.

A different approach

Pappas sounded sympathetic to Michel's plight but maintains her caucus would have handled it differently.

"That's why you have human relations people," she said. "You go to HR people, say something's not appropriate and ask: 'What do you recommend? What should our caucus do?'"

She said the Senate employs just such a non-partisan human resources expert, Wendy Dwyer.

The Senate must hold an ethics hearing within 30 days of the filing of the complaint. Pappas doesn't know yet the date of the hearing, nor does she know who, if anyone, including Brodkorb, will testify or whether the committee simply will ask Michel for an apology.

By now, though, those details may be irrelevant to the Senate Republican caucus, which is seeing a mushroom cloud in the political embarrassment it wanted to avoid.

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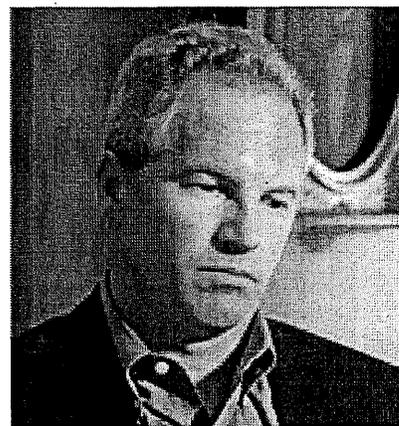
State Sen. Geoff Michel was deputy Senate majority leader until the Amy Koch scandal rocked the Republican leadership.

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● Sen. Geoff Michel to get ethics hearing ... soon

By Brian Lambert | 05:45 am

Megan Boldt of the PiPress says: **“A spokesman for Senate GOP leadership said Tuesday they will hold a hearing on an ethics complaint against Sen. Geoff Michel, R-Edina, as soon as possible.** Steve Sviggum said Republican leadership wanted to have the hearing Tuesday evening, one day after DFLers filed a complaint that argues Michel failed to take appropriate action when he was informed that former Senate Majority Leader Amy Koch was having an affair with a subordinate. But Sviggum said Democrats had a scheduling conflict. ‘We want to have it right now,’ Sviggum said, hinting DFL senators were stalling to keep the issue in the news longer.



Sen. Geoff Michel

Republican Senate leaders have defended Michel’s handling of the situation, saying he dealt with it in the best way possible in his role as deputy Senate majority leader at the time. ‘I’m confident that Senator **Michel handled this in an honest, forthright and courageous fashion,**’ said Senate Majority Leader Dave Senjem.” Wow. “Courageous,” you say?

<p>Benjamin Busch <i>Dust to Dust</i> March 27, 7 PM Central Library 300 Nicollet Mall Minneapolis</p>	
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Breaking: Michel ethics hearing

The Senate Subcommittee on Ethics hearing about Sen. **Geoff Michel's** handling of the **Amy Koch/Michael Brodkorb** scandal recessed for floor session without making any finding a little after 2:30 this afternoon. The committee, which has already entertained failed motions to find probable cause and to find no probable cause -- both died on 2-2 votes -- will presumably meet again this evening.

But it was clear from the start that the inquiry would yield little if any new information about the nearly three-month interval between Michel's learning of their affair and the meeting in which Koch's leadership team confronted her about it. Ethics Chair **Michelle Fischbach's** opening comments left little doubt on that score: There would be lines of questioning that the committee could not countenance, Fischbach said, due to the looming threat of a lawsuit from Brodkorb. After opening statements, when Pappas tried to ask Michel exactly who in the Secretary of the Senate's office Michel had spoken to back in September when he first learned of the affair, Fischbach again interrupted to say that this was one of the lines of inquiry she could not permit.

Instead of attempting to ascertain why the process moved so slowly, Pappas soon resorted to hectoring Michel over his alleged lack of contrition. "Why not say, 'I gave wrong information and I'm sorry?'" she asked at one point. Michel responded with a soliloquy on his critics' propensity for wrenching his words out of context. And on they went. It apparently did not occur to Pappas that in tossing overboard any concern about what transpired during those three months, she was lending credence to charges that her complaint was a purely political gambit. And it apparently did not occur to Michel that by simply restating what he'd said in his opening remarks -- i.e., that he had indeed given incorrect information about the timeline, and that he regretted it -- he could have undercut the whole basis of Pappas' complaint in a single stroke.

In other words, it's essentially the low-impact political show trial that most observers expected. But it doesn't mean the repercussions will stop when the hearing gavels out. One source close to the Senate GOP caucus hinted to us prior to the hearing that Gov. **Mark Dayton's** administration could find itself on the receiving end of one or two more commissioner rejections in the near future. suit from Brodkorb. After opening statements, when Pappas tried to ask Michel exactly who in the Secretary of the Senate's office Michel had spoken to back in September when he first learned of the affair, Fischbach again interrupted to say that this was one of the lines of inquiry she could not permit.



GLEN STUBBE • gstubbe@startribune.com

Sen. Geoff Michel listened during a Senate Ethics Committee hearing on Friday. The committee later split 2-2 over whether Michel violated ethics rules after learning then-Majority Leader Amy Koch was having an affair with a staffer. Michel told the panel he and staff "have nothing to apologize for."

Senate committee deadlocks on sex-scandal ethics complaint

By RACHEL E. STASSEN-BERGER
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A move to force former Deputy Senate Majority Leader Geoff Michel to publicly apologize for his handling of a sex scandal that rocked the Capitol last year has left the Senate Ethics Committee deadlocked along party lines.

The four-member committee split 2-2 on Friday, unable to reach a decision on whether Michel violated ethics rules when he did not inform the Senate that Majority Leader Amy Koch was having an affair with staffer Michael Brodkorb.

ETHICS PANEL

The Senate Ethics Committee considered whether to:

- Dismiss a complaint against Republican Sen. Geoff Michel
- Move forward with a deeper investigation
- Or revisit the issue after threatened legal action is concluded.

ON A1: Senate approves proposed voter ID amendment.

The deadlock, due in part to the panel's inability to discuss issues related to a possible wrongful-termination suit by Brodkorb, keeps the issue alive indefinitely. Since the scandal in December, Koch resigned from the leadership, Brodkorb was fired and Michel lost his deputy spot. He has since said he will not run for re-election.

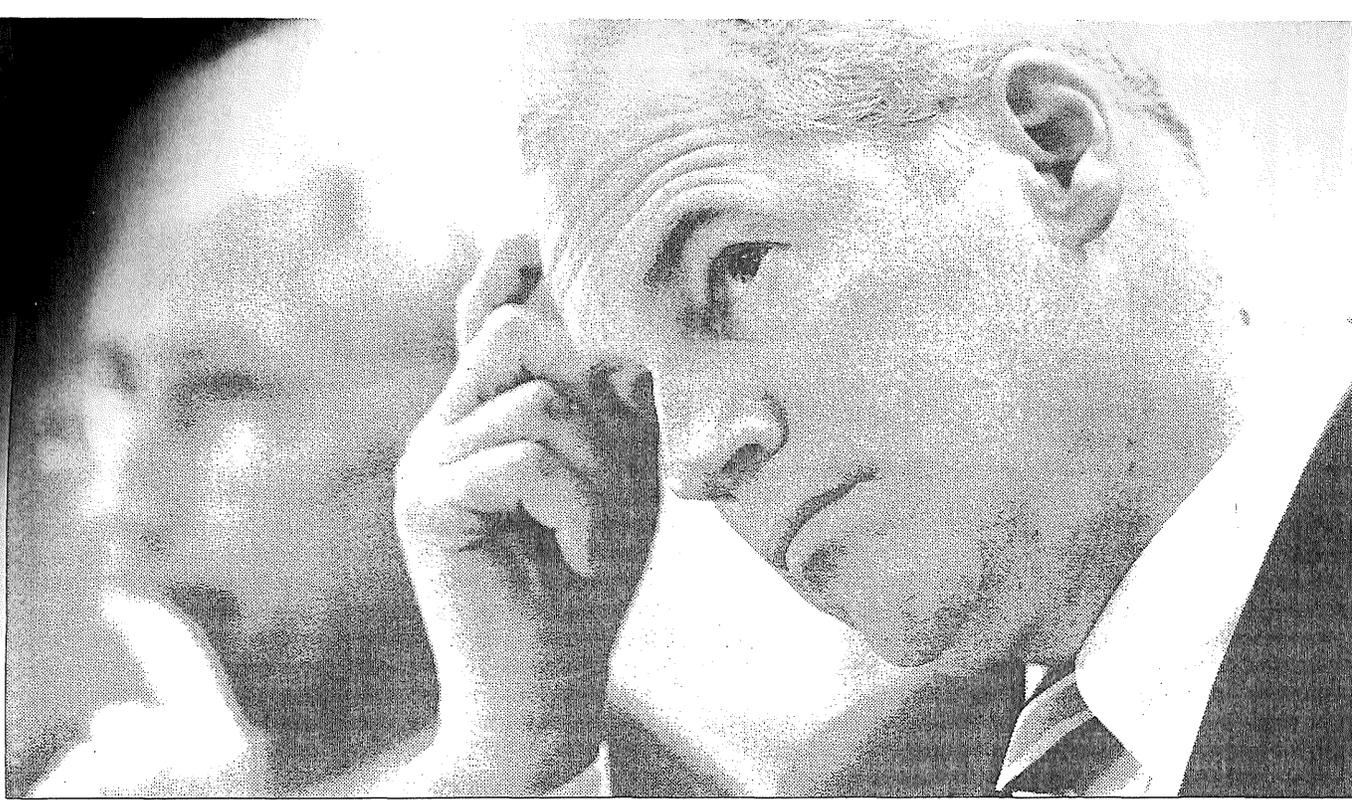
Michel insists he did nothing wrong in the months after he found out about the affair last fall. He said he was proud of how he and staff handled knowledge that Koch — who, he said, was the "top of the pyramid" — was having an affair with her executive assistant. "These folks and myself have nothing to apologize for," said

Michel, R-Edina. He said he did his best once it was clear that "the majority leader was not willing to resolve the conflict, even after being confronted by our chief of staff. The employee in question was not willing to step down."

DFLers say Michel should apologize publicly for telling the news media, and therefore the public, in December that he had known about the affair for only a few weeks. He later admitted that he had, in fact, known about it since September.

"The ethical behavior would have been to say, 'I would prefer

Deadlock continues on B5 ▶



GLEN STUBBE • gstubbe@startribune.com

Sen. Geoff Michel had the visible support of nearly all the Senate's Republicans, who sat behind him during Friday's hearing of the Senate Ethics Committee. The panel was weighing Michel's actions after he learned of former Majority Leader Amy Koch's affair with a staffer.

Ethics complaint deadlocks panel

◀ DEADLOCK FROM B1

not to answer that question," said DFL Sen. Kathy Sheran, of Mankato. Sheran, a member of the committee, said Michel chose instead to deceive.

Republican senators said the DFL ethics complaint is motivated more by partisanship than by ethical concerns.

"This is purely political," said Sen. Bill Ingebrigtsen, R-Alexandria. A member of the committee, Ingebrigtsen said he would not "second-guess" anything Michel did to deal with the knowledge that Koch had an affair with Brodkorb. "I keep going back to what a tough job that had to be," he said.

Giving the 2½-hour hearing an even weightier feel, both Michel and Sen. Sandy Pappas, DFL-St. Paul, who brought the complaint, were sworn to tell the truth during the proceedings. Nearly all of the Senate's Republicans sat quietly behind Michel, in visible support of their colleague. Koch was not present.

Michel also brought his own attorney to sit with him as he testified before the committee.

"People did bring dishonor and disrepute upon the Senate — and it's the people who created this mess," his attorney, Bob Maher, said to the committee. "And it's the cynical political opportunists who are trying to capitalize on this mess." DFLers said they have no plans to file an ethics complaint against Koch, who will leave the Senate at the end of this year.

But there may be more fallout from the scandal, which was clearly present in the committee room: the specter of a lawsuit.

Brodkorb, who was fired the day after Koch resigned last year, plans to sue the Senate for gender bias. He claims he was treated differently from other employees who have had intimate relationships with their legislative bosses. His attorneys have said that to prove his case, he will need to interview all current and former lawmakers and staffers who may have had dalliances.

While no one in the hearing room mentioned Brodkorb



Koch



Brodkorb

by name, his presence was felt. The private attorney the Senate hired to deal with his case, Dayle Nolan, watched the entire hearing.

Occasionally, Senate counsel Tom Bottern left the committee table to consult with her.

Ethics Committee chair Michelle Fischbach, R-Paynesville, repeatedly reminded members to steer away from any questions or statements that could have a bearing on his potential litigation. "We are trying to be particularly careful," said Fischbach, an attorney by training.

The committee members had agreed to restart deliberations after a lengthy floor debate on voter ID concluded, but the Republican members didn't show up for those discussions. After waiting an hour, the two Democratic members — Sen. John Harrington, DFL-St. Paul, and Sheran — said it was "inappropriate" and "problematic" for the Republicans to skip out on their agreed-upon hearing time.



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Shortly after 10 p.m., committee chair Fischbach released a statement to the media — not to the DFL members — saying she was ending the meeting for the night. Sheran said she is not confident that Republicans will ever reconvene the meeting.

Senate Majority Leader Dave Senjem, R-Rochester, said they were concerned about how the afternoon hearing and any further discussions might affect potential litigation by Brodkorb.

Pappas said she left the afternoon hearing frustrated. She wanted answers, she said, and because of the lawsuit, "we are not able to do that, evidently."

Rachel E. Stassen-Berger • Twitter: @rachelisb

Capitol: Michel ethics hearing in Senate panel deadlocked again

By Megan Boldt mboldt@pioneerpress.com TwinCities.com-Pioneer Press

Posted:

TwinCities.com

After a three-week hiatus, a Minnesota Senate ethics panel reconvened to hear a complaint against Republican Sen. Geoff Michel of Edina.

And yet again, after meeting twice for more than four hours on Tuesday, April 17, the committee deadlocked on a complaint that Michel didn't take appropriate action when he was told former Senate Majority Leader Amy Koch was having an affair with a staffer.

The two Republicans on the committee - Sen. Michelle Fischbach of Paynesville and Sen. Bill Ingebrigtsen of Alexandria - voted there was no probable cause and no need for further investigation. The two DFLers - Sen. Kathy Sheran of Mankato and Sen. John Harrington of St. Paul - disagreed. The panel adjourned with no decision, which means the complaint against Michel will stand open.

"We are deadlocked on every question in front of us," said Fischbach, the panel's chairwoman.

If new information emerges, Fischbach said, she would consider reconvening for further deliberations.

Members of the ethics committee first came to a stalemate on March 23 over the complaint filed by Sen. Sandy Pappas, DFL-St. Paul. Pappas argues that Michel misled the public about when he became aware of the affair and waited to take action until public disclosure was imminent.

After a promise to return later that evening, the two Republican members didn't show up to the meeting. Republican Senate leaders said they postponed the rest of the hearing on advice of legal counsel.

The former GOP staffer, Michael Brodkorb, said he lost his job because of his relationship with Koch. He has filed a gender-discrimination complaint with the U.S. Equal Employment Opportunity Commission, which could be a precursor to filing a lawsuit.

That impending suit and whether it should have an impact on deliberations of the ethics committee was a big point of contention Tuesday. Harrington said members have been "hamstrung" because they can't ask the right questions due to concerns of what can and can't be said.

Fischbach said it is important that the ethics committee tread lightly in light of the litigation. She and Ingebrigtsen reiterated that they don't believe there is probable cause to move forward on the complaint and they feel they had ample information to make that decision.

DFLers have argued the complaint centers on Michel lying to the press about what he and knew and when he knew it. Koch's former chief of staff, Cullen Sheehan, has said he told Michel about the relationship Sept. 21. Koch resigned her leadership post in December and Michel told reporters at a Dec. 16 news conference that complaints about the relationship had surfaced over the past few weeks, not months.

Michel has repeatedly said he did so to protect Sheehan and other staffers.

On Tuesday, Michel told committee members they should dismiss the complaint and instead help revise the Senate's human resources procedures to better address personnel matters like the Brodkorb-Koch situation.

"I continue to believe that this isn't about ethics. It's about politics," Michel said of the complaint. "It's not about the reputation of the Senate. It's about partisanship."

Senate leaders remain mum on how much the legal battle is costing state taxpayers.

Secretary of the Senate Cal Ludeman has repeatedly denied requests by various media outlets for almost all information regarding the Senate's contract with private attorney Dayle Nolan on the matter. Nolan told the Associated Press that she didn't have a formal contract outlining her duties and refused to say how much she is being paid.

Megan Boldt can be reached at 651-228-5495.