

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT
CASE TYPE: OTHER CIVIL

The Ninetieth Minnesota State Senate and the
Ninetieth Minnesota State House of
Representatives,

Court File No. 62-CV-17-3601
Chief Judge John H. Guthmann

Plaintiffs,

**AFFIDAVIT OF ERIC HALLSTROM IN
SUPPORT OF DEFENDANTS’ MOTION
FOR A STAY OF ENFORCEMENT OF
THE JUDGMENT PENDING APPEAL**

v.

Mark B. Dayton, in his official capacity as
Governor of the State of Minnesota, and
Myron Frans, in his official capacity as
Commissioner of the Minnesota Department of
Management and Budget,

Defendants.

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

1. My name is Eric Hallstrom. I am the Deputy Commissioner for Defendant Minnesota Department of Management and Budget (“MMB”) and oversee MMB’s Budget, Accounting, and Debt Management Divisions. As a result of these responsibilities, I am familiar with the Legislature’s financial accounts in MMB’s accounting system (“SWIFT”), as well as MMB’s role with respect to those accounts. This is the second Affidavit I have submitted in the above-entitled matter.
2. In accordance with the district court’s Temporary Injunction, MMB ceased making Temporary Injunction funding available to the House and Senate after October 1, 2017. Since October 2, 2017, the House and Senate have continued to make expenditures, and

have done so using their respective carryforward accounts. Both the House and Senate have continued in operation since their Temporary Injunction funding ceased on October 2, 2017.

3. I oversee MMB's processing of the House and Senate's expenditures in the SWIFT system. Since October 2, 2017, the House and Senate have continued making expenditures that have been processed through the SWIFT system. These expenditures have been made from the House and Senate's respective carryforward accounts. For example, in addition to member and staff payroll, expenses since October 2 include \$86,565.58 for apartment/furniture rental and housing reimbursements, \$39,296.38 for other expense reimbursements including mileage, and \$4,375.00 to pay conference registration fees for 7 legislators and staff to attend a conference in Boston.
4. If the district court ordered that the House and Senate must be given access to their FY18-19 appropriations, despite the Governor's line-item vetoes, MMB would create appropriations in SWIFT, from which they could make expenditures. The House's appropriation accounts would contain the value of the entire FY18-19 House appropriation; the Senate's appropriation accounts would contain the value of the entire FY18-19 Senate appropriation. Amounts for the expenditures the House and Senate made using the Temporary Injunction funding would be subtracted from the amounts available in the appropriation accounts.
5. If the Supreme Court finds the appropriations were lawfully vetoed and reverses the district court, unspent funds from the appropriation accounts must be canceled since they are funds from invalid appropriations. In addition, it is a violation of law for any State official to incur indebtedness on behalf of the State without an appropriation, or to intentionally use

money for a purpose other than the purpose for which it was appropriated. Minn. Stat. §§ 16A.138, 16A.139. As a result, the House and Senate will be required to repay to the general fund amounts they spent from the appropriation accounts. Repayment could be accomplished by using other appropriated funds, such as the House and Senate carryforward account funds.

6. If the House and Senate spend more than the amounts in their carryforward accounts, they would be required to repay the general fund from other available funds, such as through a funds transfer from the Legislative Coordinating Commission (“LCC”). If the House and Senate spend more than the available LCC funds, or if the LCC does not vote to transfer funds, and there are no other available appropriated funds from which to repay the general fund, money will have been paid out of the state treasury without any lawful appropriation. *See* Minn. Const. art. XI, § 1; Minn. Stat. § 16A.138.
7. When the Governor vetoed the House and Senate appropriations, he left the LCC’s FY18-19 appropriation intact. The LCC’s appropriation can be used “in either year of the biennium.” Minn. Stat. § 16A.281. In addition, just like the House and Senate, the LCC has a carryforward account that can be used for operations. *Id.* Finally, the LCC has broad authority to transfer its carryforward and biennial appropriation funds. Minn. Stat. § 3.305, subd. 2. The LCC does not require MMB approval to transfer these funds, and I am not aware of any discretion MMB has to limit the LCC’s transfer authority.
8. After the parties participated in court-ordered mediation, I learned for the first time that the Senate and House obtained a legal opinion that they could access LCC carryforward funds and FY18-19 appropriation, and intended to do so.

9. According to SWIFT, and as of November 1, 2017, the following amounts are in the following accounts:

House Carryforward: \$8,193,928

Senate Carryforward: \$3,932,636

LCC Carryforward: \$3,847,682

LCC FY18: \$12,950,612

LCC FY19: \$17,553,000

Thus, Plaintiffs have access to up to over \$45 million among these five accounts,

FURTHER YOUR AFFIANT SAITH NOT.


ERIC HALLSTROM

Subscribed and sworn to before me
this 1st day of November 2017.



