

**Minnesota House of Representatives**

**Ethics Committee**

**2003—2004**

Rep. Sondra Erickson, Chair

Rep. Tom Pugh, Vice Chair

Rep. Greg Davids

Rep. Jim Rhodes (alternate)

Rep. Mary Murphy

Rep. Tim Mahoney (alternate)

**Committee Staff**

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DFL	Sean Rahn	651-296-5974
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# Member Roster

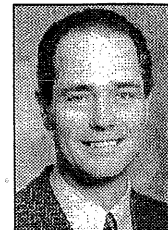
## 2003-2004 Eighty-Third Session

### COMMITTEE ON ETHICS



**Erickson, Sondra (R)** 16A  
 \*407 State Office Building ... (651) 296-6746  
 E-mail: rep.sondra.erickson@house.mn  
 Home: Princeton  
 1947 Ridge Road 55371 ..... (763) 389-4498  
 Born: 3/2/42. Widowed: 1 child. **Occupation:** Retired Teacher. **Education:** BA, English, Concordia College; graduate work, University of St. Thomas. **Elected:** 1998. **Term:** 4th.

**Mahoney, Tim (DFL)** 67A  
 \*289 State Office Building ... (651) 296-4277  
 E-mail: rep.tim.mahoney@house.mn  
 Home: St. Paul  
 1157 Breen St. 55106 ..... (651) 776-3200  
 Single: 2 children. **Occupation:** Pipefitter. **Education:** pipefitting, St. Paul Technical College. **Elected:** 1998. **Term:** 3rd.



**Pugh, Thomas (DFL)** 39A  
 \*273 State Office Building ... (651) 296-6828  
 E-mail: rep.tom.pugh@house.mn  
 Home: South St. Paul  
 980 Terrace Lane 55075 ..... (651) 455-5016  
 Business: South St. Paul  
 222 W. Grand Ave. 55075 ..... (651) 451-6411  
 Born: 8/49. Married spouse Susan, 2 children. **Occupation:** Attorney. **Education:** AB, government, Dartmouth College; JD, University of Minnesota. **Elected:** 1988. **Term:** 8th.

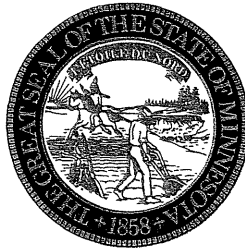
**Murphy, Mary (DFL)** 6B  
 \*343 State Office Building ... (651) 296-2676  
 E-mail: rep.mary.murphy@house.mn  
 Home: Hermantown  
 5180 W. Arrowhead Rd. 55811 .... (218) 729-6399  
 Single. **Occupation:** Grounds Manager/ Historical Preservation. **Education:** BA, history, College of St. Scholastica; graduate work, University of Minnesota-Duluth, University of Wisconsin-Superior, American University, Macalester College, Indiana University. **Elected:** 1976. **Term:** 14th.



**Davids, Gregory (R)** 31B  
 379 State Office Building ..... (651) 296-9278  
 E-mail: rep.greg.davids@house.mn  
 Home: Preston  
 \*P.O. Box 32 55965 ..... (507) 765-2790  
 Business: same  
 Born: 8/28/58. Married: spouse Bonnie, 3 children. **Occupation:** Insurance Agency Owner/President. **Education:** Waldorf College, Iowa; BS, social science, Winona State University; graduate work, Minnesota State University, Mankato. **Elected:** 1991. **Term:** 7th.

**Rhodes, Jim (R)** 44A  
 443 State Office Building ..... (651) 296-9889  
 E-mail: rep.jim.rhodes@house.mn  
 Home: St. Louis Park  
 \*3408 Rhode Island Ave. S. 55426... (952) 933-1325  
 Business: Roseville  
 1700 W. Highway 36,  
 Suite 301 55113 ..... (651) 697-7924  
 Born: 4/9/42. Married: spouse Judy, 2 children. **Occupation:** Nonprofit Credit Counselor. **Education:** AA, University of Minnesota. **Elected:** 1993. **Term:** 6th.





# Minnesota House of Representatives

March 11, 2003

The Honorable Steve Sviggum  
Speaker of the House  
463 State Office Building  
St. Paul, MN 55155

Dear Speaker Sviggum:

Pursuant to Temporary House Rule 6.10, we request that the House Committee on Ethics convene for the purpose of investigating the conduct of Representative Arlon Lindner. The subject of this ethics filing is contained in the enclosed complaint.

It is our request that a preliminary hearing be held on this complaint immediately, pursuant to the procedures of the Committee on Ethics.

A handwritten signature in cursive script, appearing to read "Keith Ellison", written over a horizontal line.

Representative Keith Ellison

A handwritten signature in cursive script, appearing to read "Matt Entenza", written over a horizontal line.

Representative Matt Entenza

A handwritten signature in cursive script, appearing to read "Karen Clark", written over a horizontal line.

Representative Karen Clark

A handwritten signature in cursive script, appearing to read "Lyndon Carlson", written over a horizontal line.

Representative Lyndon Carlson

A handwritten signature in cursive script, appearing to read "Ron Katz", written over a horizontal line.

Representative Ron Katz

A handwritten signature in cursive script, appearing to read "Margaret Anderson Kelliher", written over a horizontal line.

Representative Margaret Anderson Kelliher

A handwritten signature in cursive script, appearing to read "Neva Walker", written over a horizontal line.

Representative Neva Walker

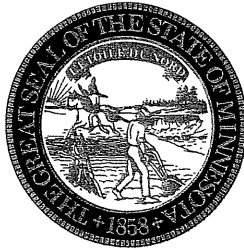
A handwritten signature in cursive script, appearing to read "Frank Hornstein", written over a horizontal line.

Representative Frank Hornstein

Enclosure

cc: Representative Arlon Lindner





# Minnesota House of Representatives

## FORMAL NOTICE OF COMPLAINT AGAINST REPRESENTATIVE ARLON LINDNER FOR VIOLATION OF THE RULES OF THE MINNESOTA HOUSE

### NOTICE OF COMPLAINT

The undersigned, members of the Minnesota House of Representatives, in furtherance of their responsibilities to uphold the Constitution and Rules of the House, hereby notify the Speaker of the House of their filing of a complaint against Representative Arlon Lindner.

Representative Lindner's violation of Rule 6.10 of the House, promulgated pursuant to the Minnesota State Constitution, Article IV, Section 7, and the formal Temporary Rules of the House, adopted on January 7, 2003, requires the immediate convening of the House Ethics Committee for a preliminary hearing as provided by House Rule 6.10.

The complaint is hereby enclosed and contains, with specificity, the allegations sworn by the undersigned Representatives.

We swear the statements in the complaint are true, so help us God.

Dated this 11<sup>th</sup> Day of March 2003.

A handwritten signature in cursive script, appearing to read "Keith Ellison", written over a horizontal line.

Representative Keith Ellison

A handwritten signature in cursive script, appearing to read "Matt Entenza", written over a horizontal line.

Representative Matt Entenza

A handwritten signature in cursive script, appearing to read "Karen Clark", written over a horizontal line.

Representative Karen Clark

A handwritten signature in cursive script, appearing to read "Lyndon Carlson", written over a horizontal line.

Representative Lyndon Carlson

A handwritten signature in cursive script, appearing to read "Ron Latz", written over a horizontal line.

Representative Ron Latz

A handwritten signature in cursive script, appearing to read "Margaret Anderson Kelliher", written over a horizontal line.

Representative Margaret Anderson Kelliher

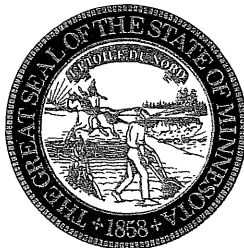
A handwritten signature in cursive script, appearing to read "Neva Walker", written over a horizontal line.

Representative Neva Walker

A handwritten signature in cursive script, appearing to read "Frank Hornstein", written over a horizontal line.

Representative Frank Hornstein





# Minnesota House of Representatives

## ETHICS COMPLAINT AGAINST REPRESENTATIVE ARLON LINDNER FOR VIOLATION OF MINNESOTA HOUSE RULE 6.10

### COMPLAINT

The Minnesota State Constitution, Article IV, Section 7, provides that each house may determine the rules of its proceeding and for the punishment of members. The House adopted on January 7, 2003, Temporary Rule 6.10, which provides in relevant part:

**A complaint may be brought about conduct by a member that violates a rule or administrative policy of the House, that violates accepted norms of House behavior, that betrays the public trust, or that tends to bring the House into dishonor or disrepute.**

**On March 7<sup>th</sup>, 2003 the following remarks were attributed to Representative Lindner as published in the Minneapolis Star Tribune:**

Representative Lindner when asked about objections to removing sexual orientation as a classification in the Minnesota Statute, claimed that Nazi persecution of homosexual people was a recent rewriting of history, by stating the following, "I was a child during World War II, and I've read a lot about World War II," he said. "It's just been recently that anyone's come out with this idea that homosexuals were persecuted to this extent. There's been a lot of rewriting of history."

**On March 10, 2003, Representative Arlon Linder rose to make a point of personal privilege on the floor of the Minnesota House of Representatives, and made the following statements which violate Rule 6.10:**

"It's just been within the recent two or three years that its been brought forward that homosexuals also suffered like that. And whether or not they suffered as a homosexual or as resistant fighters against the Nazis, you know, you don't know and I don't know either. But there's information out there on both sides. I'm still stating it myself, the purpose of my bill that you don't like, it has to do with removing sexual orientation from our Minnesota Statutes. That, that's one place that that expression sexual orientation occurs. As most people know, there's 22 or more orientations that fall into this category. We should have never codified that into law in the first place. It's time to get rid of it."

"Ahh, that's what this is about. It's not about a holocaust. And what I'm trying to prevent is the holocaust of our children getting STDs, AIDS and various other diseases that's going to affect their lives the rest of their lives. If you want to sit around here and wait till America becomes another African continent, well then, you do that...but I'm going to try to do something about it."

**On March 11<sup>th</sup>, 2003, the following remarks were attributed to Representative Lindner as published in the Minneapolis Star Tribune:**

In reference to homosexuals being persecuted during the Holocaust, Representative Lindner said, "'I'm not convinced that they were persecuted,' suggesting that the main gay participants in the Holocaust were Nazi concentration camp guards. That contention, he added, is laid out in a book called the 'Pink Swastika'..." Through these published statements, Representative Lindner not only denies that Nazi's persecuted individuals based on their sexual orientation, but he strongly implies that homosexual Nazi's were to blame for the Holocaust.

These statements violate accepted norms of House behavior and tends to bring the House into dishonor or disrepute. We are compelled to bring the following two counts to the attention of the House Committee on Ethics:

### **Count 1**

Pursuant to House Rule 9.01, the Rules Committee has established a code of conduct for members, officers and employees of the House. The published statements by Representative Lindner violate Rule 6.10. The rules states in part:

**A complaint may be brought about conduct by a member that . . . violates accepted norms of House behavior.**

Representative Lindner's derogatory, bigoted and racist remarks about homosexuals and those who claim ancestry from the African continent, and his grossly inaccurate portrayal of the Holocaust and the AIDS epidemic in Africa, clearly violates the accepted norms of House behavior.

This is further verified by the provisions of the House Code of Conduct (Attachment 1) that require a State Representative to treat everyone with respect, fairness and courtesy; and be respectful of the House of Representatives as a fundamental institution of civil government; and to exemplify good citizenship and high personal integrity and by observing the letter and spirit of laws and rules. Despite being informed of the overwhelming and incontrovertible evidence to the contrary, Representative Lindner's grossly inaccurate public statements and opinions about the Holocaust calls into question his ability to exemplify high personal integrity, his ability to practice good citizenship and his willingness to abide by the spirit of our laws, which tend to be inclusive of others, not exclusive.

### **Count 2**

Pursuant to House Rule 9.01, the Rules Committee has established a code of conduct for members, officers and employees of the House. The statements by Representative Lindner violate Rule 6.10. The rule states in part:

**A complaint may be brought about conduct by a member that . . . tends to bring the House into dishonor or disrepute.**

As evidence of this, members filed a formal protest and dissent as a result of the remarks of Representative Lindner. As further evidence, the National Anti-Defamation League has issued the following statement calling the comments "unacceptable" (Attachment 2):

"While all Jews were victims of the Holocaust not all victims were Jews. That - homosexuals were among the people Hitler targeted is a documented historical fact. To deny that is to revise history and that is unacceptable, especially from one in leadership and public service."

## Conclusion and Request for Relief

We, the undersigned, believe that the following two counts require immediate consideration by the House Committee on Ethics. We respectfully request that the Committee find that probable cause exists for the violation of these rules and that the Committee, in open hearing, recommend an appropriate sanction for the violation of our rules.

Submitted with this complaint (as required by Rule 6.10) is a copy of the Transcript from the House Floor Session from March 10, 2003, a copy of the recording log from that day's session, and copies of statements published in the Minneapolis Star Tribune, dated March 7, 2003 and March 11, 2003, and a copy of the National Anti-Defamation League's statement regarding the unacceptable nature of Representative Lindner's comments.


We swear that the statements in this complaint subscribed to us are true, so help us God.

Dated this 11<sup>th</sup> Day of March 2003.

  
Representative Keith Ellison

  
Representative Matt Entenza


  
Representative Karen Clark

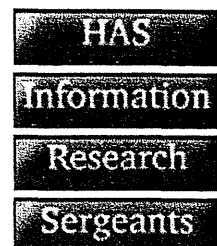
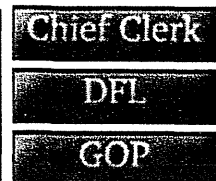
  
Representative Lyndon Carlson

  
Representative Ron Latz

  
Representative Margaret Anderson Kelliher

  
Representative Neva Walker

  
Representative Frank Hornstein



Last updated on

## Code of Conduct

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**Code of Conduct**  
**Committee on Rules and Legislative Administration**  
**Code of Conduct - Minnesota House of Representatives,**  
**2001-F, approved 2/8/01**

A State Representative shall:

Accept public office as a public trust and endeavor to be worthy of that trust - by respecting the principles of representative democracy, by exemplifying good citizenship and high personal integrity, and by observing the letter and spirit of laws and rules.

Promote the health of democracy - by fostering openness in government, full public understanding of government actions, and public participation in governmental processes.

Treat everyone with respect, fairness, and courtesy.

Exercise sound judgement by deciding issues on their merits.

Be respectful of the House of Representatives as a fundamental institution of civil government.

Use the power and facilities of office only to advance the common good.

Respect and maintain confidential information obtained as a public official.

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Comments: [sharon.jarpey@house.leg.state.mn.us](mailto:sharon.jarpey@house.leg.state.mn.us)

## ATTACHMENT #1

1913-2003



OUR 90TH YEAR

MYRNA SHINBAUM

Director, Media Relations

**FOR IMMEDIATE RELEASE**

Contact: Myrna Shinbaum (212) 885-7747

Statement by Abraham H. Foxman, National Director, Anti-Defamation League

"While all Jews were victims of the Holocaust not all victims were Jews. That homosexuals were among the people Hitler targeted is a documented historical fact. To deny that is to revise history and that is unacceptable, especially from one in leadership and public service."

The Anti-Defamation League, founded in 1913, is the world's leading organization fighting anti-Semitism through programs and services that counteract hatred, prejudice and bigotry.

## ATTACHMENT #2

Founded in 1913 "to stop the defamation of the Jewish people...to secure justice and fair treatment to all citizens alike."

Anti-Defamation League of B'nai B'rith, 823 United Nations Plaza, New York, NY 10017

**House Floor Transcript**  
**3/10/03**

**Lindner:** It's just been within the recent two or three years that its been brought forward that homosexuals also suffered like that. And whether or not they suffered as a homosexual or as resistant fighters against the Nazis, you know, you don't know and I don't know either. But there's information out there on both sides. I'm still stating it myself, the purpose of my bill that you don't like, it has to do with removing sexual orientation from our Minnesota Statutes. That, that's one place that that expression sexual orientation occurs. As most people know, there's 22 or more orientations that fall into this category. We should have never codified that into law in the first place. It's time to get rid of it. It's causing a lot of problems in our schools, businesses and so forth. Ahh, that's what this is about. It's not about a holocaust. And what I'm trying to prevent is the holocaust of our children getting STDs, AIDS and various other diseases that's going to affect their lives the rest of their lives. If you want to sit around here and wait till America becomes another African continent, well then, you do that...but I'm going to try to do something about it.

**Speaker:** The member from Hennepin, Representative Ellison.

**Ellison:** Mr. Speaker, I have to strongly object to that racist comment that was just made by Representative Lindner. Referring to an African continent in such a derogatory length is offensive to everybody in this body. It's offensive to everybody in this state. And that is another cause for Rep. Lindner to have to apologize. I am embarrassed for us today when I think about the evil, bigoted statement that was just expressed, and the way in which it was expressed. It seems like every time that gentleman says something he digs himself into a deeper hole and embarrasses this state even more.

**Speaker:** The member from Hennepin, Representative Walker.

**Walker:** Will Mr. Lindn...

**Speaker:** For purpose to you arise...

**Walker:** Thank you, Mr. Speaker. I actually have a question for Representative Lindner....personal privilege, we'll do that.

**Speaker:** State your point of personal privilege, Rep. Walker.

**Walker:** Actually, no it's not. Actually, it's a point of inquiry. Parliamentary inquiry.

**Speaker:** State your point of parliamentary inquiry.

**Walker:** Will Rep. Lindner

**Speaker:** Parliamentary inquiry is for the front desk.

**Walker:** Ok, point of personal privilege.

**Speaker:** State your point of personal privilege, Rep. Walker.

**Walker:** I actually will take this moment to commend Rep. Ellison for eloquently speaking something that I probably would not have been able to say myself. I, actually, as a third year representative have many things that we will agree upon. There are many things that we will disagree upon. We come from different parts of the state. We represent different constituents. I am a proud African American, representing not only individuals in District 61B, but also African

Americans throughout the state. It is amazing to me how we can have ignorance at all levels of 'isms' talked about in the point of manner by certain representatives without any follow-through, media attention, other representatives, including that caucus, saying that was wrong. I was personally attacked just a couple of minutes ago as an African American. I'm not going anywhere. I do believe that the continent of Africa has not only given this country great riches, but continues to do that. I'm interested in hearing more from your constituents, Representative Linder, because I'm going around actively talking to folks saying, "You know, Representative Lindner might be confused," but I'm not sure his folks in his district are. And so, Keith, thank you for pointing out these racist statements. That, hopefully, in '04, your constituents will do the right thing and ask for your resignation now.

**Speaker:** The member from Hennepin, Representative Clark.

**Karen Clark:** Thank you, Mr. Speaker. Rep. Lindner, when you said

**Speaker:** For what purpose to you arise?

**Clark:** Oh, personal point of privilege, I'm sorry.

**Speaker:** State your point of personal privilege.

**Clark:** And I do want to address the comments that Rep. Lindner made. Rep. Lindner, when you said that it has only been two or three years that it has been known that gays and lesbians were victims of the holocaust, you're displaying a great lack of knowledge. I brought with me today a document that was shared at the press conference earlier today. It says 10 million people were murdered in the Nazis death camps. I will have this made smaller if it will be useful to members of the body here. This is 101 education that I learned more than 30 years ago. But, you know what, I know that not everybody knows it. So I'm happy to share it. I probably know it because I am an open lesbian, and I knew about my brothers and sisters in the millions who were slaughtered in those death camps. This shows the kinds of symbols that all different kinds of minorities at that time who were persecuted, who were hated, who were victims of bigotry, who were forced to wear as the Nazis regime went forward. And I'll just show you, this isn't in color, but you can see, and we all know, that Jews were required to wear yellow stars. Individuals who were accused of having an ideology that conflicted with the Nazi agenda wore a triangle, included those who were considered habitual criminals, and included very minor legal offenses were forced to wear another colored triangle. Anyone not of pure German descent were forced to wear another type of triangle. Any students of religion were required to wear another kind of triangle. Gays, lesbians or anyone accused of having a homosexual thought were required to wear pink triangles. And the individual who testified at the press conference this morning, talked about how she saw people led into the gas chambers who had pink triangles on their clothing. And the last triangle on here is one that is called anti-social. It's a black triangle that included the mentally ill, alcoholic, and the mentally retarded. And I know that lesbians were also a part of those who were required to wear the black triangle. Gypsies, Jehovah's Witnesses, and others were all required to wear certain types of insignias. And, Rep. Lindner, maybe everybody doesn't know all those different symbols. But I have to tell you this is not new historical information. It's not new at all. And I really hope that you will educate yourself. And I'd be glad to be part of that education. I'm trying to keep my heart and mind open to you. I find your comments...my folks taught me, I grew up a religious minority, they taught me that the bigotry and intolerance I was experiencing was due to ignorance. That I should feel sorry for the people that are so ignorant. And so I am going to try to have an attitude of feeling sorry, being charitable. But, I tell you, you try to pass that law, you try to pass that law to protect people from hate crimes, as the woman in the press conference talked, we're going down the road that the Nazis went down. You start choosing one group of people to hate and persecute, and pretty soon, it's your next minority, your next door neighbor. I just encourage us members to ah... I guess I'd just be glad to be a source of information for

people... it's very hard, Mr. Speaker, to hear about the kind of rewriting of history that has been talked about here today.

**Speaker:** The member from Washington, Rep. Lipman, to what do you arise? State your privilege to the House, Rep. Lipman.

**Lipman:** Mindful of some of the remarks from the gentleman from Hennepin County were seen as provocative, I guess I would just hope that the privilege of the House, in future, he would stick closer to Sec. 223 of Mason's. Namely, that public accusations of a member, which, if true, would not incapacitate that person from membership are not proper points of personal privilege. Likewise, merely criticizing a member's act in the House, which seems to me we've had a great deal of today, likewise does not constitute a proper point of personal privilege. I understand that tempers are high on this matter, and that the debate has been provocative, but rules are there for a purpose. They're there for all members. They're there for the good functioning of this body. I would urge members to look at Section 223 with regards to their future requests for a time of personal privilege.

**Speaker:** The member from Ramsey, Rep. Entenza, for what purpose do you arise?

**Entenza:** Mr. Speaker, to create a point of order pursuant to 2.31. Mr. Speaker, if I may explain.

**Speaker:** Rep. Entenza.

**Entenza:** Mr. Speaker, 2.31 is a rule we have about offensive rules in debate. And I raise this so that as a House we may consider this at a future time. Rep. Lindner's intransigence and apparent racism causes me to be forced to raise this issue. His reference to the African American continent is a clear reference apparently to blacks. And as raised by my African American colleagues from Hennepin County, a topic which I fear we will need to revisit after I and my colleagues have had a chance to cool down a bit. In addition, Rep. Lindner, I know that you had indicated in the Tribune that you had studied this issue. I only wish that you were willing to open your heart and studied a little bit more. And go with our Jewish colleagues who had invited you to the Holocaust Museum. I suspect your ignorance, hostility and bigoted words would change very quickly if you saw the carnage that is amply demonstrated there.

**Speaker:** Rep. Entenza, you read him the entire 2.31?

**Entenza:** Mr. Speaker, 2.31 in the last sentence, and I will read it to you, says a member must not be held to answer, be subject to censure of the House for the language used in debate unless exception is taken...and, Mr. Speaker, Representative Ellison spoke to that issue and was clearly taking exception to it. As you saw, I rose, as well, to make the point, as did Rep. Walker. And I wanted to make it clear what the intention of this group was. You ...

**Speaker:** I just wanted to make sure you read the entire 2.31.

**Entenza:** You know what's clear to me, Mr. Speaker? The coldness in Rep. Lindner's heart. That's clear to me.

**Speaker:** The member from Rice, Rep. Boudreau, for what purpose do you arise?

**Boudreau:** Mr. Speaker, personal privilege.

**Speaker:** State your point of personal privilege.

**Boudreau:** Thank you, Mr. Speaker. I think the real issue here is the coldness in the heart of the Nazi regime and what they did to people...Jewish people. I don't think anyone here



supports those actions. In fact, they're horrible. If that's the point we're talking about, then let's stick to that point. They were atrocious. People were killed and murdered. And do you know how people were killed and murdered? First, the Nazis outlawed firearms. Then, they took them out of the homes of Jewish people and they couldn't defend themselves. And I think that's an equal point that needs to be made. And if you don't believe that, look at the history book.

**Speaker:** Rep. Kahn, for what purpose do you arise?

**Kahn:** Point of personal privilege.

**Speaker:** State your point of personal privilege, Rep. Kahn.

**Kahn:** Just a correction, Rep. Boudreau, actually the first law the Nazis passed was the repeal of legalized abortion.

**Speaker:** Representative Paulsen for what purpose to you rise?

**Paulsen:** Mr. Speaker, I move that when the House adjourn today, it adjourn until 3:00pm, March 13, 2003.

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## Coming out in droves to protest

Sarah T. Williams, Star Tribune

Published March 7, 2003

GLBT07

A vocal floor-to-ceiling crowd filled the State Capitol rotunda Thursday to protest a bill that would remove sexual orientation as a protected class under the state's Human Rights Act.

As many as 1,600 people cheered and hollered as DFL legislators, Minneapolis City Council members, high school students, clergy members, a former Vikings player and polar explorer Ann Bancroft spoke out against the bill.

"Our sled is moving, and we are not going to go back," said Bancroft, a lesbian. "Some of the greatest obstacles I have faced in my life have not been on the ice. They have been people's attitudes -- about what I can or cannot do, and what I should or should not be. This is a political obstacle, and we will clamber over it."

Scott Dibble, DFL-Minneapolis, the only openly gay state senator, told the crowd: "We are up against tough, mean-spirited foes. You [the bill's authors] may try to delete us from the statute books, but you'll never delete us from the neighborhoods . . . the schools . . . the workplaces . . . the hospitals . . . the police forces of this great state. We are here to stay."

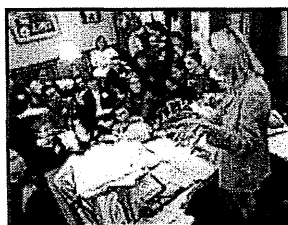
Said former Viking Esera Tuaolo, who disclosed last year that he is gay: "It doesn't take a rocket scientist to know that what they are doing is wrong."

The bill, sponsored by Rep. Arlon Lindner, R-Corcoran, seeks to repeal a 1993 amendment to the state's Human Rights Act that makes it illegal to discriminate on the basis of someone's sexual orientation -- along with race, religion, ethnicity and physical or mental disability. A similar bill has been introduced in the Senate.



Supporters of gay and lesbian rights rallied in the rotunda.

Judy Griesedieck  
Star Tribune



The protesters also met with legislators.

Judy Griesedieck  
Star Tribune

Supporters of the bill say that the 1993 amendment has conferred "special rights" on gays and lesbians and that it has been used "as a vehicle for intimidation" and has "promoted homosexuality" in the schools. Opponents of the bill say it represents a giant step backward in the state's human rights record.

Gov. Tim Pawlenty's office said Thursday that

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he would not sign the bill. "He [Pawlenty] is extremely supportive of human rights," said spokeswoman Leslie Kupchella. "This [law] is not about gay rights or 'special rights' -- it is about human rights and fairness for all. He does not believe that anyone should be discriminated against for a job or housing simply because they are gay."

Tom Prichard, president of the Minnesota Family Council, which has lobbied in favor of the bill, was unperturbed. "The governor has said in the past he has problems with the law. I would assume he still does."

Pawlenty voted in 1993 to include sexual orientation in the human rights law. But as he sought the Republican gubernatorial endorsement last year, he told Republican activists that he regretted that vote.

The problem with the law, Prichard said, is that it "protects a group of people based on behavior. I think that is a distortion of the intent of protected-class status, which is traditionally the racial groups."

**'I don't hate them'**

Lindner, a six-term Republican, said in an interview Thursday that complaints from constituents about "homosexuality being promoted in the schools" prompted him to write the bill.

He said that when constituents tried to raise concerns about programs, posters or pamphlets they found sexually explicit or objectionable, they would be told by school administrators that nothing could be done about it because "it's the law."

Lindner said 1 percent of the population should not be "instructing" the other 99 percent on same-sex practices in the schools. He cited a rise in sexually transmitted diseases among young people "because of oral sex" and said, "We shouldn't be promoting this to our kids and calling it 'safe.' I'm just waiting for a lawsuit against the schools, when a kid comes up with a disease and they can trace it back to what they are learning in school."

He also said the law unfairly restricts business owners: "If they don't want a cross-dresser sitting at the front desk, they should have a right not to hire that person. . . . Today, they can be sued."

And he argued with objections to removing sexual orientation as a classification in the law's definition of Holocaust survivors and victims.

"I was a child during World War II, and I've read a lot about World War II," he said. "It's just been recently that anyone's come out with this idea that homosexuals were persecuted to this extent. There's been a lot of rewriting of history."

**'Wrong message'**

Throughout the day, the 1,500 to 1,600 gay-rights supporters, a number estimated by State Capitol security officials, also met with their senators and representatives to make a case against the bill or seek other support. They were young and old, gay and straight.

In a meeting with Rep. Jim Davnie, DFL-Minneapolis, Joyce Momont, 78, of south Minneapolis, spoke of her fears for her son.

"Our son came out to us in 1976, 17 years before the 1993 bill was passed," she said. "As the mother of a gay son, you can only imagine those years of worry and concern about his safety . . . the number of times he would come home and say that somebody had assaulted him. So 1993 was a big year for us. We just can't go backwards."

Davnies told the group of about six visitors to "ratchet up the clamor" on the bill, House File 341.

"People should be hired based on their qualifications for the job, and fired based on their performance," he said. "They should be rented apartments or sold houses based on their ability to make the monthly mortgage or rent. They should be judged in their community by what sort of neighbor they are. . . . When legislation like HF 341 comes forward, it sends the wrong message."

**'Not mean-spirited'**

Meanwhile, in the offices of House Speaker Steve Sviggum, R-Kenyon, constituents were making a plea to restore benefits for same-sex domestic partners of state employees.

Sviggum, by working to restore sick and bereavement leave to the labor contract, said he had been "hit by both sides" on the issue and had struck a middle ground.

He chided DFLers, accusing them of "a little bit of hypocrisy" for not "offering an amendment or a bill to bring their words forth in action on same-sex benefits."

And he said he does not support HF 341 "as it is written." But he vigorously defended his House colleague.

"I know Arlon Lindner, and I can guarantee you he is not mean-spirited. I think there should be no discrimination in the workforce or in housing because of race, gender or sexual orientation. Where Arlon is coming from, is [his objection] to the teaching of gay and lesbian lifestyles in the schools."

*-- Sarah T. Williams is at [swilliams@startribune.com](mailto:swilliams@startribune.com).*

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## Lawmaker condemned by Holocaust survivor now accused of racism

Conrad deFiebre, Star Tribune

Published March 11, 2003

LIND11

Rep. Arlon Lindner, already facing severe criticism over his statements about gays and lesbians and the Nazi Holocaust, was accused of racism on the House floor Monday after saying his bill to strip gays and lesbians of state human rights protections would save America from becoming "another African continent."

The House's only two black members immediately lashed out at Lindner, R-Corcoran, sparking a tense floor debate between Republicans and DFLers that veered into discussions about abortion and handgun rights in Nazi Germany.

Even Gov. Tim Pawlenty weighed in late Monday, describing Lindner's comments about the Holocaust as "troubling."

Earlier Monday, the outspoken Lindner was hit with the fourth official protest filed against him by fellow legislators in four years, a House record. It was prompted by his published remarks last week that Nazi persecution of gays and lesbians is a new idea spawned by "a lot of rewriting of history."

The previous complaints against him involved alleged misconduct while chairing a committee meeting, equating a Jewish House member's views with those of the "irreligious left" and describing Buddhism as a "cult." But the House has never officially censured him.

"It seems like every time this gentleman says something, he digs himself a deeper hole and embarrasses this state more," Rep. Keith Ellison, DFL-Minneapolis.

Rep. Neva Walker, DFL-Minneapolis, the other black House member, said she considered Lindner's statement "a slap of racism directed towards me and Keith."



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Lindner said he was only parrying DFL attacks on his bill to quash gay rights when he said: "What I'm trying to prevent is the Holocaust of our children [from AIDS and other sexually transmitted diseases]. If you want to sit around and wait until America becomes another African continent, you do that, but I'm going to do something."

Later, he said: "I don't believe that's a racist statement. That's a statement of fact." He also said he had no idea that his black colleagues would be offended. "I don't think of them as black people," he said. "I just think of them as people."

#### **Partisan debate**

Fellow Republicans leapt to Lindner's defense. Rep. Dennis Ozment, R-Rosemount, said he supports Lindner's right to free speech. Rep. Eric Lipman, R-Lake Elmo, one of seven Jewish House members, scolded DFLers for stretching parliamentary rules to attack Lindner.

Three Jewish DFLers, Reps. Phyllis Kahn and Frank Hornstein of Minneapolis and Ron Latz of St. Louis Park, also waded into the debate. Latz accused Lindner of "perhaps a willful failure to know history." Hornstein, whose grandparents were killed in the Holocaust, called Lindner's views "deeply offensive to millions of Americans whose relatives suffered during the Third Reich."

And when Rep. Lynda Boudreau, R-Faribault, noted that the Nazis exterminated Jews after outlawing possession of firearms, Kahn replied: "The *first* thing the Nazis passed was repeal of legalized abortion."

Another Jewish legislator, Rep. Jim Rhodes, R-St. Louis Park, said: "What bothers me more than anything is it's getting political. That doesn't help anybody. We have to move on. In the end, we are all God's children."

But Ellison said that, for him, it had nothing to do with politics. "I had an emotional reaction, not a political reaction," he said. And he accused Republicans of a "lack of moral courage" while maintaining "amazing party discipline."

After the House adjourned, Ellison said, several GOP legislators privately apologized to him for Lindner's remarks.

Rep. Ron Abrams, R-Minnetonka, who is Jewish, did not speak during the debate. But in an interview later, he said of Lindner: "What he said was just plain wrong. His statements are indefensible. I don't think he has a dark heart, but he's terribly misinformed."

#### **Won't step down**

House Minority Leader Matt Entenza, DFL-St. Paul, earlier had called

on Lindner to resign as chairman of the House Economic Development and Tourism Division because of his Holocaust comments.

"Holocaust revisionism is one of the basest forms of historical perfidy," Entenza said. He also described Lindner as an "unrepentant member of the Flat Earth Society."

Lindner declined to step down. House Speaker Steve Sviggum, R-Kenyon, said he wouldn't force him out, although he called many of Lindner's statements "inappropriate."

If he did so, Sviggum added, he would have had to censure Rep. Tom Rukavina, DFL-Virginia, for referring recently to Republican State Auditor Pat Awada as "Osama bin Awada."

"I won't remove Arlon for using wrong words," Sviggum said. "Arlon is not a mean-spirited person at all. But it almost seems every time Arlon says something, it gets worse for him."

Pawlenty issued a written statement Monday evening from Bemidji, where he was conducting a public forum on his plan for tax-free economic development zones.

"Since the liberation of Nazi concentration camps more than a half century ago, the atrocious scope of the Holocaust remains one of history's most vivid personifications of human evil," the Republican governor said. "I oppose any efforts to rewrite history to exclude homosexuals or any other minority group that suffered as victims of the Holocaust."

Before the House debate, Lindner, a transplanted Texan who has a Baptist seminary degree, spent much of the day defending his views.

"I'm not convinced that they were persecuted," he said, suggesting that the main gay participants in the Holocaust were Nazi concentration camp guards. That contention, he added, is laid out in a book called "The Pink Swastika," which he hasn't read but is trying to lay his hands on.

*-- Staff Writer Dane Smith contributed to this report.*

*-- Conrad deFiebre is at [cdefiebre@startribune.com](mailto:cdefiebre@startribune.com).*

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Tape # 1  
Side # A  
Page # 1

SESSION: 83rd

DAY: 23rd

Monday  
DATE: 07/10/03

Time	Revolutions	Log
0001		House comes to order
0010		Prayer by the chaplain Rev. Magen
0311		Pledge of allegiance
0750		Clerk takes the roll
0750		Clerk will read journal of the preceding day
0800		Bill moves that further reading of the journal be suspended
0840		Rep Magnus point of personal privilege
0850		Rep Finckh point of personal privilege
0943		Rep Clark "
1000		Speaker "
1030		Comparison Reports
1040		Reports on standing committees
1100		2 <sup>ND</sup> reading House files
1136		2 <sup>ND</sup> reading Senate files
1150		Introduction of House Files 774-825
1151		Memoirs from the Senates
1225		1 <sup>ST</sup> reading Senate files
1250		Consent calendar H.F. 250
1259		Rep Finstad explains bill
1335		Clerk gives H.F. 250 3 <sup>RD</sup> reading
1350		Clerk takes roll
1400		Bill is passed & title agreed to (126 yes 0 no)
1430		H.F. 530 #2-on consent calendar
1455		Rep Simpson explains H.F. 530
1490		Clerk gives 530 3 <sup>RD</sup> reading
1512		Rep Goodwin question
1530		Clerk takes roll
1543		Bill is passed & its title agreed to
1546		Report from Rules & Legislative Admin.
1650		Calendar for day H.F. 450
1670		Rep Knobloch explains bill



Tape # 1  
Side # A/B  
Page # 3

DATE: 03/10/03

[illegible]

## 1 PROTEST AND DISSENT

2 Pursuant to Article IV, Section 11, of the Constitution of  
3 the State of Minnesota, the following members of the Minnesota  
4 House of Representatives file a formal Protest and Dissent  
5 regarding the published remarks of Representative Arlon Lindner  
6 on March 6 and his remarks on the House floor on March 10th.

7 On March 6, explaining his proposal to amend certain laws  
8 relating to gays and lesbians, Representative Lindner reportedly  
9 stated in public that the account of the Nazi persecution of  
10 gays and lesbians during the Holocaust is a recent fabrication  
11 and falsification of history. When challenged on this  
12 subsequently, Representative Lindner publicly defended this  
13 statement. On March 10, responding on the House floor to  
14 complaints about his statement, Representative Lindner declared  
15 that his intention is to prevent America from becoming another  
16 Africa.

17 Representative Lindner's remarks are wrong in two ways:  
18 They exhibit a deplorable ignorance of fact. And they are deeply  
19 unkind, hurtful, discourteous, and disrespectful of others.

20 As elected representatives, we are naturally alert to the  
21 necessity and benefit of free and open discussion of public  
22 questions. But we are mindful also that we, as holders of high  
23 office and the public trust, owe to everyone a decent respect  
24 and to our colleagues a proper regard for civil discourse.

03/12/03 3:38 p.m.

[RESDEPT ] JB

TT1

1 We are shocked, offended, and appalled by Representative  
2 Lindner's remarks. We call upon him to apologize and recant.  
3 Signed:

**Matt Entenza**  
**State Representative**  
House Democratic Leader

District 64A  
Ramsey County



**Minnesota**  
**House of**  
**Representatives**

**COMMITTEES: RULES**

March 13, 2003

Representative Sondra Erickson  
407 State Office Building  
St. Paul, MN 55155

Dear Representative Erickson:

I am sending this letter to ask you to remove yourself as co-chair of the House Ethics Committee during the upcoming investigation into the matter concerning Representative Arlon Lindner. The crux of the Lindner matter is whether or not Representative Lindner's words and actions regarding minority groups have brought dishonor and disrepute to the Minnesota House of Representative and have violated accepted norms of House behavior.

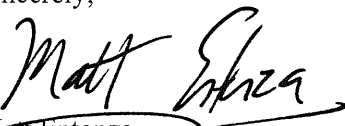
I ask that you remove yourself as co-chair of the House Ethics Committee for two main reasons. First, Representative Lindner has made it very clear based on his comments from the House Floor on March 10, 2003, that he believes this incident began with the introduction of H.F. 341, which removes sexual orientation as a definition applied to Holocaust victims. This provision would not allow gay victims of the Nazis to claim compensation under international treaties.

You are a co-author of this particular piece of the legislation. The House Ethics Committee is clearly designed to operate impartially and in a bi-partisan fashion, and should never be tainted by the mere appearance of a serving Member who may have a conflict of interest. As a co-author of H.F. 341, it calls into question your ability to be impartial and to divorce yourself from the main issue at hand—namely your belief that particular minority groups should not be afforded certain Human Rights.

Second, there have been numerous incidences where you have aggressively opposed the rights of minority groups. In 2000, you introduced legislation that stripped state funding from the various minority affairs councils. A Pioneer Press opinion column in 2001, called into question your ability to recognize Native American tribes as sovereign nations. And finally, in November 2002, you were quoted as saying that the Mille Lacs Band of Ojibwe reservation no longer exists. Clearly, you must admit that you do not have a strictly impartial record regarding the rights of minority groups.

Once again, I sincerely ask that you respect the impartiality and bi-partisan nature of the House Ethics Committee, and remove yourself as co-chair during the upcoming investigation. The mere appearance of partiality and conflict of interest does nothing but taint the process and may affect the results of the pending investigation.

Sincerely,

  
Matt Entenza  
House DFL Leader

c: Steve Sviggum  
Speaker of the House

**From:** Deborah McKnight  
**To:** Blair Tremere  
**Date:** 3/13/03 3:04PM  
**Subject:** Procedures question

I decided to write something up because I like having file notes on the issues that come up. I appreciated hearing what Al Mathiowitz told you, and his response is undoubtedly right. My notes are a summary of the history since the committee was created in 1989 and I don't think they conflict with Al.

It probably would be good to have a meeting to adopt the committee procedures & announce the meeting when the hearing on the complaint will start.

You also asked about the 21 day time line. My reading is that the committee just has to start within 21 days. It doesn't have to finish within that time. For example, the 2000 Lindner complaint was received 2/28 and the committee first met on it 3-20 and finished 3-24.

The Abeler complaint was dated 4-24-01. The committee met 4-27--01 to acknowledge receipt and set a hearing 5-10-01. They finished 5-18-01.

House Committee on Ethics  
Rules of Procedure  
2003---2004

Adopted March 17, 2003

1. PURPOSE. The Committee shall meet only: (a) to review and dispose of complaints against members (other than those arising out of election contests), as authorized by House Rule 6.10, which are submitted to the Speaker prior to adjournment sine die; (b) to adopt written procedures for handling complaints; (c) to review and make recommendations regarding ethical guidelines; (d) to consider complaints alleging violations of open meeting requirements that the Speaker has referred to the Committee under House Rule 6.23; and, (e) to consider matters referred to it by the Committee on Rules and Legislative Administration or the House.

Pursuant to House Rule 6.10, the following shall serve as the written procedures and due process requirements for handling complaints referred to the Committee on Ethics.

2. COMPLAINTS. As specified in House Rule 6.10, a complaint regarding the conduct of a member of the House shall be made by two or more members of the House, shall be in writing and under oath, shall name the member or members charged and the actions complained of, shall present with specificity the factual evidence supporting the complaint, and shall be submitted to the Speaker.

On matters of complaints against members, the House Research Department shall serve as staff to the Committee only, and not to either the complainants or any member named in a complaint.

If a complaint is withdrawn by the complainants, the Committee shall immediately terminate all proceedings respecting the complaint, except as the Committee deems necessary to determine whether the complaint is frivolous for purposes of action under Rule 8.

3. PROCEEDINGS TO BE HELD IN PUBLIC; EXCEPTIONS.

The existence and substance of the complaint, including any supporting materials, and all proceedings, meetings, hearings and records of the Committee are public; except that the committee, upon a majority vote of the whole Committee, may meet

in executive session to consider or determine the question of probable cause, as provided in Rules 6 and 7, to consider a member's medical or other health records, or to protect the privacy of a victim or a third party.

4. DUE PROCESS. Any member named in a complaint must be fully informed of due process rights. The member must be given a copy of the complaint and must be given timely notice of and the right to be present at all meetings and hearings. The member has the right to respond to all charges, to be represented by counsel, to call and cross-examine witnesses, to introduce exhibits, to be furnished with exhibits, documents, and evidence in possession of the Committee, and to rebut evidence offered by the complainants. The members making a complaint must be notified of all meetings and hearings on the complaint and must be given notice of their opportunity to offer evidence of matters alleged in the complaint.

5. COMMITTEE PROCEEDINGS; RECORDS. All public records of the Committee must be disposed of in accordance with House Rule 6.24. When the Committee meets in executive session, the proceedings, all evidence presented in the session, and all records of the session are confidential except insofar as the Committee determines, by a majority vote of the whole Committee, that items should be made part of the public record. The Committee shall advise all participants in an executive session of the confidentiality requirement. Confidential records of executive sessions must be kept by the Committee until the December 31 next following adjournment sine die, at which time the confidential records must be destroyed by the Chair of the Committee, or the Chair's designee, and notification of the destruction sent to the Chief Clerk.

6. MEETING ON PROBABLE CAUSE. The Committee shall, upon receipt of a complaint, hold a meeting within 21 days to determine whether there is probable cause to support the complaint. The Committee may, upon a vote of the majority of the whole Committee, defer its proceedings until the completion of ongoing criminal proceedings related to the conduct named in the complaint.

7. FINDING OF PROBABLE CAUSE. If a majority of the whole Committee finds, based upon the complaint and supporting and rebutting evidence presented by the complainants and the member or members named, sufficient factual evidence to believe that the allegations contained in the complaint are more probably

true than not and that, if true, they tend to support disciplinary action, the Committee shall inform the Speaker and the member or members named that it has found probable cause and shall proceed to public hearings under Rule 10. If a majority of the whole Committee fails to find probable cause, the complaint shall be dismissed.

8. FRIVOLOUS COMPLAINTS. If a complaint is withdrawn or dismissed, and a majority of the whole Committee finds the complaint to have been frivolous, the Committee shall immediately issue a public letter of reproof to the complainants and may recommend other disciplinary action against the complainants.

9. MINOR VIOLATIONS, INFORMAL RECONCILIATION. At any time during the proceedings, if a majority of the whole Committee finds that a violation of a law, rule, administrative policy, or norm of behavior was inadvertent, technical, or of a de minimus nature, or may not warrant disciplinary action by the House, the Committee may attempt to bring about voluntary remedial or other action by the subject of the complaint without disciplinary action. The Committee also may recommend clarification of a law, rule, policy, or norm of behavior and may caution the members of the House with respect to it.

10. FINAL HEARING. The hearing to make a final Committee determination on a complaint shall be held in public except insofar as the Committee votes to meet in executive session pursuant to House Rule 6.10 and Rule 3. The purpose of the hearing shall be to receive and evaluate the evidence offered in support of or opposition to disciplinary action and to make a final Committee determination on the complaint.

11. COMMITTEE DETERMINATION. If a majority of the whole Committee finds clear and convincing evidence in support of disciplinary action, the Committee shall, with or without comment, make a recommendation to the House for final disposition. If a majority of the whole Committee fails to find clear and convincing evidence in support of disciplinary action, the complaint shall be dismissed.

12. RECOMMENDATIONS FOR DISCIPLINARY ACTION. The Committee may recommend disciplinary action by the House as follows:

(a) The Committee may recommend expulsion. Expulsion is



the ultimate penalty available to the House. It is the only sanction expressly referred to in the state constitution, which recognizes the gravity of this power by requiring a vote of two-thirds to exercise it. Expulsion is a sanction that is properly reserved for the most serious violations of law, rule, standards, or duty, for conduct so abhorrent that it obliges the House to repudiate an elected representative of the people.

(b) The Committee may recommend censure. Short of expulsion, censure is the strongest formal statement of disapproval of the conduct of a member by the member's peers. It is used to condemn very serious misconduct that does not justify expulsion from the House. Censure is carried out by a majority vote of the House, through the adoption of a resolution of censure that is entered in the permanent Journal of the House.

(c) The Committee may recommend reprimand. Reprimand is the appropriate discipline for misconduct that warrants formal disapproval by the House but is not so serious as to justify censure. Reprimand is carried out by a majority vote of the House, through the adoption of a resolution of reprimand that is entered in the permanent Journal of the House.

(d) As part of a resolution of censure or reprimand, the Committee may recommend that the member be required to make financial restitution. This is appropriate in cases where the Committee finds that the misconduct was committed to secure, or resulted in, an undeserved personal financial benefit due to misuse or misappropriation of public funds or assets.

(e) As part of a resolution of censure or reprimand, the Committee may recommend that remedial or other action be required of the member, including a requirement that the member accept professional counseling or assistance.

(f) As part of a resolution of censure or reprimand, the Committee may recommend that the House impose other discipline that the Committee deems appropriate.

(g) Under the Minnesota Constitution, article IV, section 6, and article VII, section 1, a member who is convicted of a felony is not entitled to continued membership in the House, until restored to civil rights, and must, if necessary, be expelled.

This Committee action taken March 17, 2003

/s/ Sondra Erickson, Chair

House Committee on Ethics Rules of Procedure 2003---2004  
Adopted March 17, 2003

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(b) The Committee may recommend censure. Short of expulsion, censure is the strongest formal statement of disapproval of the conduct of a member by the member's peers. It is used to condemn very serious misconduct that does not justify expulsion from the House. Censure is carried out by a majority vote of the House, through the adoption of a resolution of censure that is entered in the permanent Journal of the House.

(c) The Committee may recommend reprimand. Reprimand is the appropriate discipline for misconduct that warrants formal disapproval by the House but is not so serious as to justify censure. Reprimand is carried out by a majority vote of the House, through the adoption of a resolution of reprimand that is entered in the permanent Journal of the House.

(d) As part of a resolution of censure or reprimand, the Committee may recommend that the member be required to make financial restitution. This is appropriate in cases where the Committee finds that the misconduct was committed to secure, or resulted in, an undeserved personal financial benefit due to misuse or misappropriation of public funds or assets.

(e) As part of a resolution of censure or reprimand, the Committee may recommend that remedial or other action be required of the member, including a requirement that the member accept professional counseling or assistance.

(f) As part of a resolution of censure or reprimand, the Committee may recommend that the House impose other discipline

that the Committee deems appropriate.

(g) Under the Minnesota Constitution, article IV, section 6, and article VII, section 1, a member who is convicted of a felony is not entitled to continued membership in the House, until restored to civil rights, and must, if necessary, be expelled.

This Committee action taken March 17, 2003

/s/ Sondra Erickson, Chair

Code of Conduct – Minnesota House of Representatives

A State Representative shall:

Accept public office as a public trust and endeavor to be worthy of that trust – by respecting the principles of representative democracy, by exemplifying good citizenship and high personal integrity, and by observing the letter and spirit of laws and rules.

Promote the health of democracy – by fostering openness in government, full public understanding of government actions, and public participation in governmental processes.

Treat everyone with respect, fairness, and courtesy.

Exercise sound judgment by deciding issues on their merits.

Be respectful of the House of Representatives as a fundamental institution of civil government.

Use the power and facilities of office only to advance the common good.

Respect and maintain confidential information obtained as a public official.

Code of Conduct – Minnesota House of Representative

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18  
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# History of House Ethics Committee Complaint Procedures

Deborah K. McKnight, House Research Department  
March 17, 2003

## Introduction

I was the House Research Department staff for the 1986 and 1988 select ethics committee. I staffed this area from establishment of the standing committee in 1989 to the present. This memo reviews the history of the select and standing committees since 1986 with emphasis on the grounds of complaints, how they were handled, and the outcomes of the complaints.

Authority for ethics actions against members is found in the Minnesota Constitution, article IV, section 7:

*Each house may determine the rules of its proceedings, sit upon its own adjournment, punish its members for disorderly behavior, and with the concurrence of two-thirds expel a member; but no member shall be expelled a second time for the same offense.*

Experience in Minnesota and other states, as well as under the parallel federal provision that governs Congress, shows this provision to be very broad in the conduct it reaches.

Before I describe the specific complaints that have been handled by the committee, I want to mention a jurisdictional issue and touch on three major procedural points: due process, counsel for the committee, and executive sessions.

## Election Contests Distinguished

Between 1957 and 1979 four House members were excluded from office for conduct arising out of their election campaigns. These matters originated as election contests based on false misrepresentations during the campaigns of their opponents' positions on various issues. This kind of conduct has been viewed as separate from matters that come before the Ethics Committee or its predecessor select ethics committees. Historically, elections contests have been under the jurisdiction of the committee that handles elections bills because the conduct at issue is regulated by a different constitutional provision, article IV, section 6:

*Each house shall be the judge of the election returns and eligibility of its own members.*

## Complaint Procedure Issues

- **Due process:** Even though the state and federal constitutions enable legislative bodies to impose discipline on members, the courts require due process in the exercise of this power. What due process means has never been an issue in the Minnesota select or standing committees. Practice has always been to notify the respondent of all committee proceedings and allow him or her to be present with counsel, to provide testimony, witnesses, or other evidence, and to cross examine witnesses called by the complainants or the committee itself.

- **Counsel for the committee:** House Research has served as counsel to the select and standing ethics committees in every case since the 1980's. In addition, the first time that a probable cause determination was made after creation of the standing committee, the committee determined that outside counsel should be hired to handle the public hearing. Because the need for a public hearing in that case was eliminated by the member's decision to resign, outside counsel was not in fact used other than for the initial discussions about how to handle a public hearing.

Outside counsel was next hired in 1996 to assist with both complaints that were acted on that year. Rule 6.10 was amended in the 1997-98 biennium to specify that the Ethics Committee, with the Speaker's approval, may hire a retired judge or other nonpartisan legal advisor to assist it on a complaint.

Two complaints were brought to the committee in the 2000 session and one complaint was acted on in 2001. No outside legal advisor was retained for the committee in those matters.

- **Executive sessions:** The select committees in the 1980's were responding to matters of public record where legal proceedings had occurred against a member. Under House rule 6.10, it is also possible for two members to bring an ethics complaint about facts that are not a matter of public record and where no independent body or court has made findings. This distinction may have influenced the provision for executive sessions and confidentiality under the original version of the rule.

The original version of House Rule 6.10 required the members who brought a complaint, the Speaker, and house staff to keep the complaint confidential until a public hearing (if any) was scheduled on the complaint (i.e. because there had been a finding of probable cause). Experience with two ethics complaints during the 1996 session led to considerable discussion of the confidentiality provision. In the 1997-98 biennium the house rule was revised to provide that the existence and substance of a complaint, all supporting materials, and all meetings of the Ethics Committee are public *except* that by a majority vote of the whole committee, members may meet in executive session for any of the following reasons: to consider whether there is probable cause to recommend discipline, to review a member's medical records, or to protect the privacy of a victim or third party.

A breach of executive session confidentiality by members or staff must be referred to the committee for discipline.

### **1961 Legislative Ethics Committee**

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A statute enacted in 1961 created a legislative ethics committee, which remained in existence until the statute was repealed in 1974 as part of enacting the Ethics in Government Act, chapter 10A. There is no evidence from House journals between 1961 and 1974 that a complaint was ever brought to this standing committee. A transcript of House Ethics Committee hearings held in 1971 to consider a statutory code of conduct indicates that at least as of 1971, no complaints had been brought to that committee.

The same statute included a legislative code of ethics, which was also repealed in 1974. (Laws 1961, chapter 558; Laws 1974, chapter 470.)

### **Select Committee of 1973: Representative Klaus Matter**

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The House Journal includes a report from a select ethics committee during the 1973 session. The committee acted on a complaint that Representative Walter Klaus failed to file a statement of economic interest required under a house rule (this was prior to enactment of chapter 10A, the Ethics in Government Act). The committee held a hearing at which the member indicated his belief that the rule was an unconstitutional violation of his privacy. The committee also received a House Research memo on case law supporting the validity of the rule. The committee concluded "that subject to whatever legal or constitutional right he may have to the contrary, Representative Klaus willfully violated House Rule 70 by failing to file the required statement of economic interest." (House Journal, March 11, 1974, page 5866). The committee recommended that its report, the House Research memo, and a letter from the representative be placed in the journal.

### **Select Committee of 1986: Representative Staten Matter**

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A select committee was appointed January 24, 1986, to investigate allegations against Representative Randy Staten. A week before the committee was appointed, the representative had entered a plea of guilty to felony theft by check. In November, 1985, the Ethical Practices Board had referred to the House Rules Committee its findings of repeated incomplete campaign finance report filings by the Staten Volunteer Committee. The Speaker charged the select committee with investigating each of these matters as to whether action should be taken under the House's constitutional power to determine its members' eligibility to serve or its power to discipline members.

The chair of the 1986 committee was Terry Dempsey. The other members were John Brandl, Sidney Pauly, and Kathleen Vellenga.

The committee decided to limit its inquiry to the official record of the Ethical Practices Board and the district court in the two matters before it, as well as whatever additional information Representative Staten might supply. The hearings were held in the same manner as other legislative hearings: they were public and there was advance notice. Representative Staten chose to have counsel, and he and his attorney were invited to be present and to offer any evidence or witnesses they would like.

When the hearings were completed, the committee staff prepared a report summarizing the factual findings of the committee and its recommendations. The committee concluded that the conduct before it fell below the standard required of House members and recommended expulsion. The report was re-referred to the Rules Committee and the Rules Committee report was acted on by the entire House, which adopted the following requirements:

- ▶ censure;
- ▶ withhold 18 percent of the member's salary from April to December, 1986, and donate it to a chemical dependency treatment program of the member's choice;
- ▶ require the member to donate 100 hours of work to a community service program on chemical dependency understanding;
- ▶ continue in chemical dependency treatment; and
- ▶ return all 1986 public financing if the board finds that reporting laws were violated.

## **Select Committee of 1988**

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This committee faced two issues: a specific incident involving a member and the general issues of:

- (1) adopting complaint procedures, and
- (2) whether to adopt a code of conduct and to issue advisory opinions under it.

In February, 1988, the Rules Committee requested the Speaker to appoint a select committee on ethics for the purpose of developing procedures to deal with misconduct by a House member and determining the extent of member conduct subject to discipline.

The committee was chaired by Dee Long. Other members were Bob Anderson, David Bishop, Sidney Pauly, Leo Reding, and Loren Solberg.

The committee concluded that fairness required formal procedures for disciplining members but it did not have time to develop procedures during the short 1988 session.

The committee also discussed what kinds of conduct should be subject to ethics complaints but did not reach a conclusion. There were concerns that any attempt to make a specific list might be either over- or under-inclusive.

A related issue was whether to develop a code of conduct for members and issue advisory opinions under it. The committee declined to recommend that an ethics committee be able to do either of these things. However, on at least two occasions between 1988 and 1990, individual members requested and received the committee's guidance on whether personal business interests created a conflict of interest with their legislative duties. The requests and advice were done orally; no written records of these instances were created.

## **1988: Representative Kludt Matter**

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The select committee chosen to set ethics complaint procedures in 1988 also determined through its own discussions and through correspondence with the Speaker that it was within the committee's jurisdiction to investigate and make recommendations regarding the December 14, 1987, conviction of Representative Ken Kludt for soliciting an act of prostitution.

The committee adopted a motion that it would hold a public hearing on the matter and allow the representative to appear before it. The representative was notified, both in person by two committee members and in writing, of the committee date and the invitation to appear.

At the hearing the committee established its findings of fact by questioning Representative Kludt and a prosecuting attorney from the office that handled his conviction. The committee report to the Rules Committee recommended that Representative Kludt be required to submit a written apology to the House. Ultimately, the member did submit an apology that was included in the House Journal.

## **1989 Session: Standing Committee Established**

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In 1989 the House adopted a permanent rule establishing a committee on ethics. In March of that year the Ethics Committee members adopted procedures for handling a complaint. These procedures were later revised to reflect subsequent changes in law and house rules.

The first members of the standing committee on ethics were the same individuals who had served on the 1988 select committee, except that Representative Long was replaced by Representative Solberg, who served as chair.

## **1990: Representative Conway Matter**

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In the 1990 session, operating for the first time under House Rule 6.10 and the committee procedures finalized in 1989, the Ethics Committee received a complaint from two members concerning Representative Jeff Conway, who had been indicted for felony level criminal securities law violations. The committee met in executive session under the rule to determine how to proceed and whether there was probable cause for a public hearing. At least one complaining member was present for part of the executive sessions on the basis of the committee's need to consult a complainant. I do not recall anyone else's being in attendance.

The committee's executive session deliberations were focused on familiarizing members with the counts of the lengthy indictment and what was the proper response to the indictment. The committee determined that there was probable cause to support the complaint and decided to engage outside counsel of a respected stature to represent the committee in a public hearing. I do not recall any discussion of why they wanted outside counsel this time as opposed to the practice of not having it in the earlier matters. If I were to speculate, I would think that it made some difference that in this instance there was an indictment rather than a conviction, so there was arguably more of a factual case to be made and an experienced litigator could be helpful. In my opinion, not hiring outside counsel would place in-House staff counsel in a very difficult, conflict situation (serving as a kind of prosecutor of a member). Committee members have this role as well, but their burden is imposed by the state constitution.

When the committee informed Representative Conway that a public hearing would be held he immediately tendered his resignation from office, eliminating the need for the hearing. The representative was subsequently convicted and incarcerated for the offenses that had been before the committee.

## **1996: Representative Johnson Matter**

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A complaint was brought against Representative Robert Johnson alleging:

- (1) multiple guilty pleas for driving while intoxicated, and
- (2) threats of legislative reprisals against the department of public safety if the commissioner did not allow a highway patrol member to drive the representative to the funeral of former Governor Perpich, in view of the representative's suspended driver license.

The representative apologized for an “unfortunate misunderstanding” with the Commissioner of Public Safety, and no investigation was done or testimony taken on that matter. The Ethics Committee recommended to the Rules Committee that the member be censured for the DWI convictions and that he resign. The House also ultimately voted to censure the member and urge him to resign. The member did not resign, but he did not run again.

### **1996: Representative Bertram Matter**

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A complaint was filed that essentially alleged that the member had engaged in a pattern of threats and intimidation in connection with (1) seeking campaign contributions, and (2) seeking to discourage witnesses against his brother, a state senator, in a shoplifting case. This complaint was the first one that required the committee to do extensive fact finding, which it did by hearing the witnesses who alleged they had been intimidated and by hearing the member’s response. The committee recommended censure to the Rules Committee. The House ultimately voted for censure and required the member to admit the allegations against him on the house floor.

### **1996 Task Force to Revamp House Ethics**

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Following the 1996 session the Speaker appointed a task force of retired judges and former legislators to review the procedures used by the Ethics Committee. The task force made the following list of recommendations, all of which were incorporated in House Rule 6.10 in the permanent rules adopted for the 1997-98 biennium, and as necessary into the Ethics Committee’s own procedures:

- The committee size would be four members, two from each caucus with an alternate from each caucus (under prior rule the committee had an equal number of members from each party but was not limited in size).
- The rule would state the grounds for a complaint in the same language as the Minnesota Senate ethics rule: “conduct that violates accepted norms of House behavior, that betrays the public trust, or that tends to bring the House into dishonor or disrepute.”
- The complainants would be required to provide a copy of the complaint to the accused member before submitting the complaint to the Speaker.
- The existence and substance of a complaint and all proceedings would be public at all times, except that a majority of the whole committee could vote to hold an executive session at the probable cause stage.
- The authorization to hire a legal adviser originally found in the committee rule was moved to the House rule.
- A recommendation for discipline must be supported by clear and convincing evidence.
- A discipline recommendation would go directly to the floor rather than first to the Rules Committee.

## **1997 Working Group**

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In the early months of the 1997 session, a bipartisan Working Group of House members examined and reworked the 1996 task force recommendations. Both the House Rule (adopted on March 24, 1997) and the Committee Rule (adopted on May 13, 1997) were products of this Working Group. Besides items already mentioned in connection with the 1996 task force, the Working Group proposed the following:

- allow for executive session to review a member's medical records or to protect a victim or third party's privacy
- state the evidentiary basis for a probable cause finding by the Committee (more probably true than not, and if true tend to support disciplinary action)
- put the burden of proof on the complainants, not on the committee
- list and define in a general way the disciplinary actions that the Committee could recommend: expulsion, censure, reprimand, financial restitution, remedial or other action by the member, and other discipline
- provide or refine procedures for handling frivolous complaints, for withdrawing complaints, and for dealing with minor violations
- add House Rule 9.30, relating to the compensation of a member who is incarcerated

## **2000: Representative Lindner Matter**

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In the 2000 regular session a complaint was filed against Representative Arlon Lindner alleging that he violated House Rule 6.10 by making "derogatory remarks about the Jewish faith" on the House floor that involved calling Jewish people "irreligious and impugning the sincerity of their religious beliefs." In an amendment, the complaint further alleged that comments by the representative "indicat[ed] that members of this House should be excluded from participation in the business of the House after the House has been called to order."

The committee met in public session on three occasions to address the complaint. After two public sessions, it voted to hold an executive session to consider the issue of probable cause, then met in a final public session to announce its decision. The complainants and the responding member were present at the public sessions. Representative Lindner had counsel; neither the complainants nor the committee had outside counsel. The committee concluded that "Representative Arlon Linder's remarks were very regrettable," and further that "discipline is inappropriate and no further action will be taken." Then in a separate letter the committee requested the Speaker to authorize it to study current House rules on speech in debate for possible revision.

## **2000: Representative Rostberg Matter**

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During the 2000 regular session Representative Jim Rostberg was charged with criminal sexual conduct involving a juvenile victim. An ethics complaint was filed against him. The committee, with the apparent concurrence of the bipartisan complainants, used its authority to defer action on the complaint until criminal proceedings in the matter were completed. Representative Rostberg did not seek re-election. Following adjournment *sine die* his case was completed in juvenile court in the interests of the victim. Because the legislature was not in session between the conclusion of the court matter and the end of the representative's term, no action could be taken on the ethics complaint.

## **Study of House Rules on Speech in Debate: 2000 Interim**

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The Ethics Committee met during the 2000 interim to discuss issues that had been raised about the clarity and consistency of House rules on speech in debate and to review similar rules from other states, in order to make suggestions to the Rules Committee. No rules changes resulted from that study.

## **2001: Representative Abeler Matter**

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During the 2001 regular session, Representative Jim Abeler was the subject of a complaint alleging he had a conflict of interest, which he failed to disclose, with regard to actions he took on a bill providing rental payments for property leased to charter schools. The committee met in public session once to address the complaint. It voted to meet in executive session (which recessed and met on two or three occasions) to consider the issue of probable cause. At a subsequent public hearing the committee announced that it did not find probable cause.

Representative Abeler was represented by counsel. The complaint was presented by legislators without counsel. The committee also did not have outside counsel on this matter.



**From:** Blair Tremere  
**To:** Deborah McKnight  
**Date:** 3/17/03 9:06AM  
**Subject:** Background information

Hi, Deb:

Just to coordinate the information products we will have for the Ethics committee:

1. Proposed Rules of Procedure in legislative format. You are working on that; we only need enough copies for the committee (6) plus committee staff (say, 6) and a few (very few) for public distribution (this is because the committee may amend them and because House Rules require that they be sent to the Speaker and all members when adopted to become "official.").

2. The single sheet with the House Rules, Constitution language, etc. I have this and have made it available to members and others who wonder what the committee is all about. I do not have it electronically, but that is not a problem. I will run a bunch for the committee, staff, and the public.

3. The "Code of Conduct (proposed, 2003)." I do not have that electronically, but do have the version adopted by the Rules Committee last year. My intent is to type it up and produce a "draft proposed" version---same as the adopted---and have it for the committee. I suppose we could put it in legislative format too---what do you think?

4. The agenda itself. I am doing that now.

At this time, the plan is to physically get a packet to the committee members later today, but before the meeting. The chair may conclude that we will just bring the stuff to the meeting as per other committees. In any case, we should have the products ready to go by early afternoon----is that OK with you?

I will serve as the depository and assembly point.

Have I missed anything? Let me know. Have a great day, Deb.

Blair Tremere, Administrator  
Ethics Committee  
Minnesota House of Representatives  
580 State Office Building  
St. Paul, MN 55155

651-296-8880  
blair.tremere@house.mn

**From:** Deborah McKnight  
**To:** Blair Tremere  
**Date:** 3/17/03 9:11AM  
**Subject:** Re: Background information

Thanks for this checklist. I will also give you my committee history memo and the complaint flow chart. I did a little editorial revising over the weekend and these are being typed now. I'll get you copies of these 2 things plus the committee procedures as soon as they're ready but definitely before I go to Gov Ops at 12:30.

>>> Blair Tremere 03/17/03 09:06AM >>>  
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**From:** Blair Tremere  
**To:** Andrew Carter; Bethany Soderstrom  
**Date:** 3/17/03 9:13AM  
**Subject:** Ethics Committee meeting

Hi there:

I wanted to remind you that it is important to have the tape machine ready to go so we can record the proceedings. I leave it up to you. The meeting should not take over an hour....but be prepared for the unexpected.

The room is 400 North. The meeting is scheduled for 6:30 p.m.

There is no planned testimony, but Deb McKnight will be making a presentation....which she could do from her seat at the main table. You might have a mike at the testifier table too, just in case it is deemed better to do it from there.

Past experience suggests we should have some room for media (cameras) around the entrance....I recall we moved a couple of chairs away. This is not THE hearing on THE complaint, however, so it may not be a problem. It is a public meeting however, so there likely will be an audience.

Thank you! Have a great day!

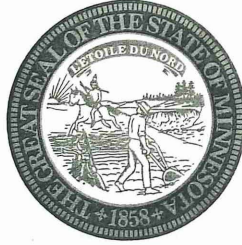
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# Research Department

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# Minnesota House of Representatives

March 20, 2003

TO: Ethics Committee Members  
FROM: Deborah K. McKnight, Legislative Analyst (651-296-5056)  
RE: Miscellaneous Questions from March 17 Meeting

Following are answers to questions asked at the March 17 meeting.

No comment policy: During the 2001 session the committee discussed whether it should have a policy of not commenting on a pending complaint before it was resolved. Representative Milbert raised the issue by comparing the committee's proceedings to judicial proceedings, and I did some research on the issue. The committee discussed Canon 3 of the Code of Judicial Conduct, which requires a judge to abstain from public comment about impending proceedings. It also discussed the statutory requirement that Campaign Finance Board members and staff must keep a complaint in confidence until a conciliation agreement is entered or there is a finding of probable cause. Minn. Stat. §10A.02, subd. 11. The point was made that a formal no comment policy would prevent members from countering "mischievous or misinformation." As we discussed March 17, the committee rules were not amended to incorporate a no comment policy.

Committee officers: House Rule 6.10 requires the Ethics Committee to have four members, two from each caucus, plus two alternates. The rule does not address the committee chair/vice chair issue, so presumably it is handled like the appointments for other committees. For the 1995-96 biennium, Representative Edgar Olson was chair and Representative Steve Smith was vice-chair. In 1997, the Speaker announced that the committee would have co-chairs. The next two bienniums are slightly less clear. Minutes from committee meetings in 2000 and 2001 describe a co-chair in those years, but the legislative directories for 1999-2000 and 2001-02 show a chair and vice-chair. In conclusion, the determination of co-chairs or chair and vice-chair is up to the Speaker.

Member convicted of a felony: A question was asked about Committee Procedure Rule 12, paragraph (g). That provision states that a member convicted of a felony is not entitled to serve until civil rights are restored and must, if necessary, be expelled.

The provision was added in the 1997 re-write of House Rule 6.10 and the committee procedure rules. Tom Todd was House Research staff for this effort. He has no recollection of discussion about this particular provision. The files from the project do not contain any material on the point. On its face, the provision appears to be there to indicate that a recommendation of expulsion is the necessary committee action for a member convicted of a felony who does not voluntarily resign.

House Code of Conduct: The Code originated in the Rules Committee in the 1995 session.

*Staff Coverage:* House Rule 9.01 provides for a code of conduct for members and staff. The Ethics Committee in recent bienniums has adopted the same code adopted in 1995, which deals only with members. Neither the Rules Committee nor the Ethics Committee has even considered adding staff to the members' code or adopting a code for staff. Tom Todd, House Research staff for the Rules Committee, recalls one discussion of an ethics code for staff. In his recollection, an Ethics Committee member spoke against the idea for the following reasons. Employees are governed by various personnel policies and can be disciplined according to those policies. In addition, House employees are at-will employees who can be discharged for any reason or no reason.

If the committee thinks there should be an ethics code for staff, it might consider raising the issues with Rules Committee, which has jurisdiction over House personnel. The committee could recommend that Rules look into whether a staff code should be adopted or House Rule 9.01 be amended to delete references to staff.

*Is the Code in Effect Now?* Tom Todd and I conclude that the code is not in effect now. Practice has been to adopt the code each biennium, and no adoption has occurred this year.

Tom noted that the Rules Committee has numerous policies affecting members and staff that remain in effect from session to session without new action by the committee. He said that typically Rules Committee only takes fresh action on policies that involve expenditure of money or that are being amended. He noted the Ethics Committee, if it so desires, could suggest that rules treat the Code of Conduct like the other essentially permanent House policies and require action only if the code is to be amended or eliminated.

DKM/jb

Memorandum (**confidential**)

To: Rep. Sondra Erickson, Chair, Ethics Committee

From: Blair Tremere, Administrator

Date: March 21, 2003 (amended March 24)

1. The purpose of the meeting on Monday, March 24 is to acknowledge receipt of the complaint, receive information from House Research staff about where the committee is at this time within the rules; to hear a report of the chair about obtaining expert testimony ["the hearing"]---**see paragraph 3**--- and, possibly, to consider a **motion** to decide whether the complaint was inadvertent, technical, *de minimus*, or may not warrant discipline [**requires at least three votes**]
2. If that were successful, the committee **could** also determine that further meetings are warranted to clarify a law, rule, policy, of behavior norm by developing a recommendation to the House.
3. If that is not successful then the issue is when to meet next and what the format should be. It would be appropriate to announce that the Chair will distribute **by a reasonable future date**, a memorandum that sets forth the procedures to be followed at the so-called "hearing" (time for presentations, order of presentations, subsequent deliberation by the committee). Attached is the format last used by the Ethics Committee (Abeler Case).
4. It appears the parties are in agreement to have a presentation hearing on **Monday, April 7, 2003**....in the early evening. The exact time can be left open, but after Floor Session or 6:30 would be reasonable.

## **Hearing of complaint against Rep. Arlon Lindner**

- **Introductions and explanation of procedure**

1. Presentation by complainants
2. Presentation by respondent
3. Questions of complainant
4. Questions of respondent
5. Closing statement by complainant
6. Closing statement by respondent
7. Close hearing

- **Committee Deliberation to determine Probable Cause**

## **Hearing of complaint against Rep. Arlon Lindner**

- **Introductions and explanation of procedure**

1. Presentation by complainants (30 minutes)
2. Questions of complainant (30 minutes)
3. Presentation by respondent (30 minutes)
4. Questions of respondent (30 minutes)
5. Closing statement by complainant (15 minutes)
6. Closing statement by respondent (15 minutes)
7. Close hearing

- **Committee deliberation to determine probable cause**



**Draft Order of Business**

**For discussion only**

**March 26, 2003**

**Hearing of complaint and determination of probable cause, per Rule 4 of the  
Rules of Procedure adopted by the Ethics Committee on March 17, 2003:**

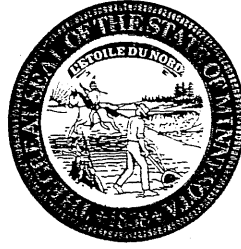
1. Introductions and explanation of procedure
2. Presentation by complainants (30 minutes)\*
3. Questions of complainant by Respondent (15 minutes)\*
4. Questions of complainant by Committee (15 minutes)\*
5. Presentation by respondent (30 minutes)\*
6. Questions of complainant by Committee (15 minutes)\*
7. Closing statement by complainant (15 minutes)\*
8. Closing statement by respondent (15 minutes)\*
9. Close hearing
10. Committee deliberation to determine probable cause
11. Adjournment

**\*Note: these are maximum times which may be extended only by the committee**

# Research Department

Thomas Todd, Director

600 State Office Building  
St. Paul, Minnesota 55155-1202  
651-296-6753 [FAX 651-296-9887]  
[www.house.leg.state.mn.us/hrd/hrd.htm](http://www.house.leg.state.mn.us/hrd/hrd.htm)



# Minnesota House of Representatives

March 26, 2003

TO: Representative Sondra Erickson  
Representative Thomas Pugh

FROM: Deborah K. McKnight, Legislative Analyst (651-296-5056)

RE: Ethics Committee subpoenas

You are both aware that Representative Lindner's attorney intends to subpoena witnesses for the hearing on the complaint. In the past, the committee has routinely requested the Chief Clerk to issue blank subpoenas for use by either side in an ethics complaint. I just remembered yesterday that under Minn. Stat. § 3.153, there must be a vote of two thirds of the committee to issue legislative subpoenas. I am sorry I was not prepared on this point for the meeting on the 24<sup>th</sup>. I thought you should know this for your planning meeting today. Mr. Anderson called this morning to ask when he could expect to receive the subpoena forms. I have not had any inquiries from the complainants regarding subpoenas.

DKM/jb

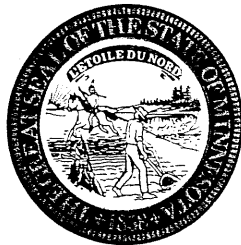
## **Addendum From Deb via Blair:**

He (Arlon Linder's Attorney) asked me a separate question I just looked up and pass on the answer for your and the chair's information. **Do witnesses under legislative subpoena get the statutory witness fees?** The answer under section 3.153 is yes. The fee in question is \$20 a day and \$.28 a mile under section 357.22.

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**JAMES R. ANDERSON**

ATTORNEY-AT-LAW  
1106 EAST COLLEGE DRIVE  
P.O. BOX 449  
MARSHALL, MINNESOTA 56258  
ATTORNEY REGISTRATION 2045

FAX 507-537-1508

PHONE 507-537-1508

March 28, 2003

Rep. Keith Ellison  
229 State Office Building  
St. Paul, MN 55155

Rep. Neva Walker-Black  
213 State Office Building  
St. Paul, MN 55155

Rep. Lyndon Carlson  
283 State Office Building  
St. Paul, MN 55155

Rep. Karen Clark  
307 State Office Building  
St. Paul, MN 55155

Rep. Matt Entenza  
267 State Office Building  
St. Paul, MN 55155

Rep. Frank Hornstein  
227 State Office Building  
St. Paul, MN 55155

Rep. Margaret Anderson-Kelliher  
261 State Office Building  
St. Paul, MN 55155

Rep. Ron Latz  
225 State Office Building  
St. Paul, MN 55155

RE: Arlon Lindner Ethics Committee Hearing

Dear above named:

I will be needing your testimony at the Hearing on the Ethics Complaint you have filed against Rep. Arlon Lindner. The first hearing on the matter, as I understand it, is 6:30 p.m., Monday, April 7, 2003 and it will be in a location yet to be determined by the Ethics Committee. You may contact the office of Blair Tremere at 651-296-8880, so as to familiarize yourselves with the locations and dates of all such hearings.

Sincerely yours,

James R. Anderson

JRA/ka

cc: Rep. Arlon Lindner  
Blair Tremere, Ethics Committee Administrator

030328ka/5

**James Anderson**

---

**From:** "James Anderson" <jra@starpoint.net>  
**To:** <ptremere.house.mn>  
**Sent:** Thursday, March 27, 2003 2:14 PM  
**Subject:** Arlon Lindner Ethics Committee

Dear Mr. Tremere: I will need subpoenas for each of the 8 signers of the complaint. The reason for the testimony will be so that we have before us each and every reason and substantiation therefore as to how the alleged conduct is unethical. I will then solicit testimony from each of the 8 in turn to show that the complaint is without merit. Also, often during trials, and proceedings of this sort as well I assume, it is necessary to have instant subpoenas available so that as the need for more testimony (rebuttal, substantiation, etc.) becomes apparent I have recourse to the needed witness. Sincerely, James R. Anderson.

Minnesota House of Representative Committee on Ethics  
Complaint Against Rep. Arlon Lindner  
2003 Legislative Session

PROSECUTOR'S MOTION FOR DISCOVERY AND DISCLOSURE

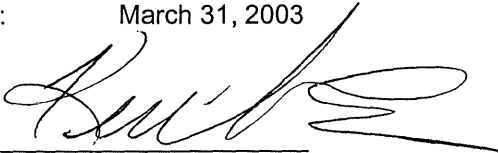
TO: Rep. Arlon Lindner  
19508 County Circle E  
Corcoran, MN 55374


PLEASE TAKE NOTICE, that Prosecutors hereby demand that the Defendant, Representative Arlon Lindner disclose the following materials, documents, and/or things not less than three days before the Ethics committee hearing, set for April 7, 2003, regarding the complaint against Representative Arlon Lindner:

1. The names, addresses, and telephone numbers of all witnesses who Representative Lindner intends to call to testify at the Ethics committee hearing;
2. A list of all documents, books, writings, whether maintained on paper or electronically, that Representative Lindner intends to offer into evidence at the Ethics committee hearing;
3. Any and all medical information, documentation, including statistical information, epidemiological information, or other medical information, including but not limited to AIDS/HIV transmission that Representative Lindner intends to offer into evidence at the Ethics committee hearing;
4. The names, addresses, and telephone numbers of any expert witnesses Representative Lindner intends to offer into evidence as a witness at the Ethics committee hearing.
5. Any and all photographic, audio, or computer generated images, pictures, films or other images that Representative Lindner intends to call at the Ethics committee hearing.

DATE: March 31, 2003

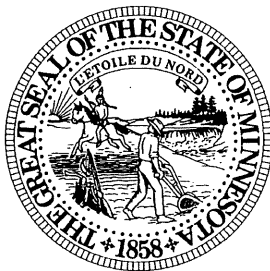
By

  
Keith Ellison, Room 229

  
Ron Latz, Room 225  
State Office Building  
100 Rev. Martin Luther King, Jr. Blvd.  
St. Paul, MN 55155

# House of Representatives

Committee on Ethics  
Rep. Sondra Erickson, Chair



Blair Tremere  
Committee Administrator  
580 State Office Building  
St. Paul, Minnesota 55155  
651-296-8880

## MEMORANDUM

**TO:** Committee Members  
**SUBJECT:** Request to issue subpoenas  
**DATE:** March 31, 2003

The attorney for the respondent, Mr. Jim Anderson, has requested authorization to issue subpoenas for witnesses in the matter of the complaint against Rep. Arlon Lindner.

Minn. Statutes, 3.153 provides, at Subdivision 1:

Subdivision 1. **Commissions; committees.** A joint legislative commission established by law and composed exclusively of legislators or a standing or interim legislative committee, by a two-thirds vote of its members, may request the issuance of subpoenas, including subpoenas duces tecum, requiring the appearance of persons, production of relevant records, and the giving of relevant testimony. Subpoenas shall be issued by the chief clerk of the house or the secretary of the senate upon receipt of the request. A person subpoenaed to attend a meeting of the legislature or a hearing of a legislative committee or commission shall receive the same fees and expenses provided by law for witnesses in district court.

The Committee's Rules of Procedure, adopted on March 17, 2003 provide, at Rule 4:

4. **DUE PROCESS.** Any member named in a complaint must be fully informed of due process rights. The member must be given a copy of the complaint and must be given timely notice of and the right to be present at all meetings and hearings. The member has the right to respond to all charges, to be represented by counsel, to call and cross-examine witnesses, to introduce exhibits, to be furnished with exhibits, documents, and evidence in possession of the Committee, and to rebut evidence offered by the complainants. The members making a complaint must be notified of all meetings and hearings on the complaint and must be given notice of their opportunity to offer evidence of matters alleged in the complaint.

April 4, 2003

Twenty copies of this folder, taped shut by me, was delivered at 5:00 p.m. today to my office by DFL staff.

I clarified with Mr. Rahn that the materials are from the complainants and are intended for committee consideration at the meeting on Monday, April 7.

I have contacted all committee members, the respondent, the respondent's attorney, and committee staff and will make every reasonable effort to distribute these over the weekend. I will notify all parties by email.

Blair Tremere



Ethics Committee Administrator



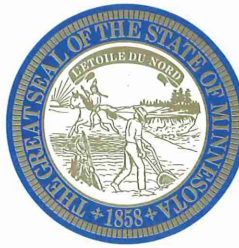
**From:** Deborah McKnight  
**To:** Blair Tremere  
**Date:** 3/31/03 11:13AM  
**Subject:** Witness fees for members

Last week I told you Representative Lindner's attorney asked me if witnesses subpoenaed by the legislature get statutory fees. The general answer is yes. Minn. Stat. 3.153 on legislative subpoenas picks up the witness fee of \$20 plus 28 cents a mile in the district court fee statute.

However, if the fee issue is raised again, I want to be sure you and the chair understand that legislators should not be eligible for this fee if subpoenaed. Since members receive a state salary and a per diem, they would not also receive a witness fee if subpoenaed to appear at the Lindner complaint hearing. the only fees that could be paid would be for members of the community who are not on the state payroll.

**Ron Latz**  
State Representative

District 44B  
Hennepin County



**Minnesota**  
**House of**  
**Representatives**

**COMMITTEES:** EDUCATION POLICY; HIGHER EDUCATION FINANCE; CIVIL LAW

March 31, 2003

Representative Sondra Erickson  
407 State Office Building  
St. Paul, MN 55155

Dear Representative Erickson:

While we have not received proper notice that Representative Lindner has requested that subpoenas be issued regarding the Ethics complaint against him, we have heard from other sources that he has done so or that this is his intent. Please find attached our response to that request.

Sincerely,

A handwritten signature in blue ink, appearing to be "Ron Latz", written over a blue circular stamp.

Ron Latz  
State Representative

Enclosure

cc: Representative Mary Murphy  
Representative Tom Pugh  
Representative Greg Davids  
Representative Tim Mahoney  
Representative Jim Rhodes

**Minnesota House of Representatives Committee on Ethics  
Complaint Against Rep. Arlon Lindner  
2003 Legislative Session**

**Motion to Focus Proceedings**

**I. Motion**

The primary purpose of the House of Representatives Committee on Ethics is to address ethics complaints brought against members of the House. As part of this process, the Committee members are required to determine probable cause relative to the charges made in the complaint and to determine the course of the case accordingly. The activities undertaken by the Ethics Committee, are therefore, serious in nature and should not be manipulated to address other matters or grievances outside the complaint.

Nevertheless, the Defendant's attorney has indicated in press conferences that he wishes to subpoena the Prosecutors of this case to have a wide-ranging discussion on the Prosecutors' religious beliefs and motivations behind the complaint. He has also indicated that he desires to use this forum to have a committee hearing on HF 341. None of these issues is relevant to the charges set forth in the Complaint. Any other testimony given by the Prosecutors would be needlessly cumulative and lengthen the proceedings. The Defendant does not have a due process right to bring forward irrelevant or needlessly cumulative evidence.

Moreover, allowing such testimony and discussion into the Committee hearing  
would corrupt the integrity of the Ethics hearing process and turn it into a three-ring  
circus. Granting Defendant's request to subpoena the Prosecutors would open the  
floodgates to a wide-ranging ethics hearing, straying well beyond the scope of this

process and the House Rules. It would cause the Prosecutors to bring in additional witnesses and would substantially lengthen the Ethics hearing. Most importantly, it would distract the Committee members from the merits of the complaint.

The Prosecutors of this case, therefore, respectfully request that the Committee focus the evidence presented in the probable cause hearing to the charges set forth in the complaint. The Prosecutors should not be called as witnesses and there should be no discussion regarding the merits of HF 341.

## **II. Testimony Regarding Prosecutors' Motives Should be Excluded Because it is Irrelevant**

### **A. To Be Relevant, Evidence Must Relate to the Complaint**

The Rules of Procedure for the House Committee on Ethics indicate that evidence offered should only be for the purpose of proving or disproving the matters alleged in the complaint. First, Rule 1 states that the Committee on Ethics has jurisdiction to review and dispose of ethics *complaints* against members. It does not have jurisdiction to investigate allegations made in any other form. Furthermore, Rule 4, entitled Due Process, states that the Prosecutors must be given notice of their opportunity to offer evidence of the matters "alleged in the complaint" and that the member named in the complaint has the right to respond "to all charges." Rule 6 states that the Committee must hold a meeting within 21 days to determine whether there is probable cause "to support the complaint." Finally, Rule 7 clearly indicates the determination of probable cause is an undertaking limited to the allegations made in the complaint. It states: "If a majority of the whole Committee finds, *based upon the complaint and supporting and rebutting evidence* ..., sufficient factual evidence to believe that *the allegations contained*

*in the complaint* are more probably true than not ...,” then the Committee should proceed to a public hearing under Rule 10.

The Minnesota Rules of Evidence also requires that evidence offered relate to the complaint. Rule 401 of the Minnesota Rules of Evidence defines relevant evidence as “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Minn. R. Evid. 401. Thus, to be relevant, the offered evidence must be of consequence to the determination of the litigation. According to the Comments to the Minnesota Rules of Evidence, what is of consequence to the litigation “depends upon the scope of the pleadings, the theory of recovery and the substantive law.” Minn. R. Evid. 401, Committee Comment. (1977). Moreover, there is a presumption that evidence is offered and received with reference to the issues framed by the pleadings. See Folk v. Home Mutual Insurance Co., 336 N.W.2d 265, 267 (Minn. 1983); Harry N. Ray, Ltd. v. First National Bank of Pine City v. Nascene, 410 N.W.2d 850 (Minn. App. 1987)(same). If evidence that is offered does not relate to the complaint, it is irrelevant and should be excluded. See State v. NMN Marchbanks, 632 N.W.2d 725 (Minn. App. 2001)(stating that if state had dropped the controlled substance charge from the complaint, evidence relating thereto was irrelevant and must be excluded).

**B. Testimony of Prosecutors’ Motives or Religious Beliefs Does Not Relate to the Complaint and Should Therefore Be Excluded**

The scope of the complaint against Rep. Arlon Lindner now before the Ethics Committee is narrow. The complaint alleges that Rep. Lindner made several statements denying that gays were persecuted by the Nazis and that Rep. Lindner made a statement declaring his hope that America would not become “another African continent.” As a

result of his statements, the complaint charges that Rep. Lindner violated the norms of House behavior and brought the House into dishonor or disrepute.

Testimony of the Prosecutors regarding motive behind the complaint or regarding their religious beliefs would not relate to the complaint and would not be of any consequence to the determination of these four claims. Any statements on intent, motive, or reasons would not prove or disprove that the statements were, in fact, made. Nor would such statements prove or show that Rep. Lindner's statements violated the norms of House behavior or that Rep. Lindner's statements brought the House of Representatives into dishonor or disrepute. The testimony of the Prosecutors regarding motive or religion is therefore irrelevant and must be excluded. See State v. McLaren, 402 N.W.2d 535 (Minn. 1987)(stating that the motive of the attorney general in bringing the lawsuit (which the plaintiff claimed was political) had no relevance to the disputed claim).

### **III. Testimony by Prosecutors Regarding Factual Matters Would Be a Needless Presentation of Cumulative Evidence**

Under the Minnesota Rules of Evidence, evidence that is relevant may be excluded if its probative value is substantially outweighed by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. See Minn. R. Evid. 403. Minnesota trial judges have traditionally exercised the power to exclude evidence that is cumulative. Minnesota Practice § 403.01. See also Evans v. Getty, 1992 WL 160849 (Minn. App. 1992)(upholding exclusion of evidence as repetitive); State v. Rein, 477 N.W.2d 716 (Minn. App. 1991)(upholding exclusion of cumulative evidence).

Testimony by the Prosecutors regarding relevant matters, such as whether the alleged statements were made by Rep. Lindner or whether the statements, if made, tended to violate the norms of House behavior or bring the House of Representatives into dishonor or disrepute, would be cumulative to other evidence presented before the Committee, such as video, audiotapes, transcripts, newspaper articles, emails and the testimony of other witnesses. The testimony of the Prosecutors regarding these matters is therefore unnecessary to Rep. Lindner to present his case and should be excluded. See McLaren, 402 N.W.2d at 541-42 (stating that the testimony of prosecutor was needless because it would not add to the facts, which could be proven by the use of other evidence such as minutes, transcripts, correspondence, memos, newspaper articles or through the testimony of other persons present at the various meetings or conferences).

#### **IV. Excluding the Testimony of Prosecutors Does Not Violate Due Process**

The Minnesota Supreme Court has stated that due process of law requires notice and opportunity for a hearing. See Juster Bros., Inc. v. Christgau, 7 N.W.2d 501 (Minn. 1943). This, among other things, means the defendant must have an opportunity to present any *relevant* contentions and evidence the party may have. Id. at 507 (emphasis added); State v. Svoboda, 331 N.W.2d 772, 775 (Minn. 1983). Accordingly, Minnesota courts have held the exclusion of evidence is compatible with due process when the evidence offered is irrelevant and repetitive. Evans v. Getty, 1992 WL 160849 (Minn. App. 1992)(holding that due process was not violated by the exclusion of testimony that would be repetitive and irrelevant); State v. Mathison, 1992 WL 189328 (Minn. App. 1992)(holding exclusion of testimony did not violate due process when the offered statement was collateral to any material issue); State v. Rein, 477 N.W.2d 716 (Minn.

App. 1991)(holding that the exclusion of cumulative testimony did not violate the defendant's right to due process).

Similarly, federal Courts of Appeals have stated that a defendant does not have an unfettered right to offer testimony that is incompetent, privileged, or otherwise inadmissible under standard rules of evidence. See Lannert v. Jones, 321 F.3d 747, 754 (8<sup>th</sup> Cir. 2003). Under this principle, the Eight Circuit Court of Appeals has upheld the exclusion of evidence under due process when the testimony in question was irrelevant or repetitive. See id. (holding that exclusion of testimony on battered spouse syndrome was not a violation of due process when there was no showing of relevance); State v. Yockel, 320 F.3d 818 (8<sup>th</sup> Cir. 2003)(holding that exclusion of evidence regarding intent to intimidate did not violate due process because such evidence was irrelevant to the charge).

## **V. Conclusion**

The Committee should exclude all testimony from the Prosecutors because the testimony is entirely irrelevant to the charges set forth in the Ethics complaint. To the extent that the opposing party seeks the testimony of the Prosecutors to prove or disprove the allegations set forth in the complaint, this testimony is needlessly cumulative to other, readily available sources of evidence, such as video, audiotapes, transcripts, newspaper articles, emails and the testimony of other witnesses. The Committee is charged by the House members to resolve ethics complaints. If Rep. Lindner wants to raise other issues, he should find other forums like his press conferences to air them.



**Minnesota House of Representatives Committee on Ethics  
Complaint Against Rep. Arlon Lindner  
2003 Legislative Session**

**Motion to Focus Proceedings**

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## **V. Conclusion**

The Committee should exclude all testimony from the Prosecutors because the testimony is entirely irrelevant to the charges set forth in the Ethics complaint. To the extent that the opposing party seeks the testimony of the Prosecutors to prove or disprove the allegations set forth in the complaint, this testimony is needlessly cumulative to other, readily available sources of evidence, such as video, audiotapes, transcripts, newspaper articles, emails and the testimony of other witnesses. The Committee is charged by the House members to resolve ethics complaints. If Rep. Lindner wants to raise other issues, he should find other forums like his press conferences to air them.

**JAMES R. ANDERSON**

ATTORNEY-AT-LAW  
1106 EAST COLLEGE DRIVE  
P.O. BOX 449

MARSHALL, MINNESOTA 56258  
ATTORNEY REGISTRATION 2045

FAX 507-537-1508

PHONE 507-537-1508

REC'D. 4-17-03  
B.T.

April 11, 2003

WITNESS:



Mr. Blair Tremere  
580 State Office Building  
100 Rev. Dr. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155-1298

FAX: 651-296-4307

Dear Mr. Tremere:

I herewith request subpoenas as follows.

I have purposefully waited several days to make this request so as to allow time to think the matter through and formulate an appropriate request.

As you know, prior to the hearing, I had some thought in my mind that the application of Committee Rule 8 might be a possibility. However, until the hearing, I advised every Republican Legislator considering reverse ethics charges that it would probably be best to not do so. The hearing has altered my thinking on this.

Prior to the hearing, we learned that the Complaint submitted to the Ethics Committee contained a "cut and paste" Transcript, thereby omitting critical information. There is at least one instance, the Star Trib March 25 (document 74) article, wherein a complainant submitted evidently false information to the major Minneapolis newspaper, which information was printed without retraction. We further know that Rep. Lindner's comments questioning the extent of homosexual death or persecution in the Holocaust is not only not inaccurate, but was actually necessary, considering Rep. Clark's (ironically one of the complainants) comments that millions of homosexuals had died in the holocaust (unless of course one believes the fairy tale that Rep. Clark was referring to Gypsies and Jehovah's Witnesses as her brothers and sisters). Both myself and the Chairwoman were publicly labeled as racists or the equivalent. All this I knew going into the hearing.

Now, please recollect with me some of the events of the hearing. At the hearing itself, things really began to deteriorate, with complainant's witness racing from the hearing room before I could cross-examine him. There were various letters introduced by complainants, many of which were riddled with inaccuracies, perhaps the top whopper being that of Stephen R. Silberfarb, contending that "five million" homosexuals were killed in the Holocaust. My lone witness was publicly jeered and ridiculed as she testified. Perhaps the most shocking to me was the public labeling of the Ethics

Committee of the Minnesota House of Representatives as a "kangaroo court", which is something I have never witnessed at any tribunal in nearly 30 years of practicing law and it is something I would certainly not expect to witness again. Ironically, the comment was made by a Representative who is seeking to sanction another Representative for bringing the House into "disrespect and dishonor".

It is up to this panel to consider whether Rule 8 applies, but it seems to me that there is some reason, at the least, to suspect it may. Therefore, so that this panel may consider whether or not Rule 8 is applicable, I request subpoenas as follows:

1. All eight complainants together with any staff or other individuals who participated in the "cut and paste" in the Transcript attached to the Complaint.
2. Have complainants issued false statements about the accused, to the media, leading up to the hearing? Examination of complainants hopefully will answer this question.

Various questions here that need to be addressed are who ordered the "cut and paste", who was aware of it, why was it done, when was it done, and why was the deletion not made known to this Committee before it was discovered by the accused's viewing of the actual tape? Who issued false media statements and why? The examinations could either be by deposition or before the committee. If this is not done, on an issue this serious, especially considering events leading up to this request, when the matter is over, I am afraid there could be those who might claim partisan "cover-up".

Sincerely Yours,

James R. Anderson

JRA/ka

cc: Rep. Arlon Lindner

030411ka/6

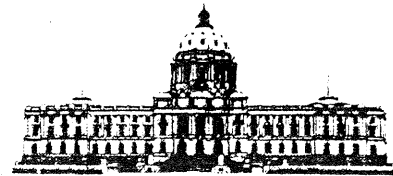


**D. SCOTT DIBBLE**  
State Senator

District 60  
Minneapolis

**KAREN CLARK**  
State Representative

District 61A  
Minneapolis



**Senate**

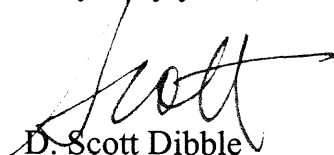
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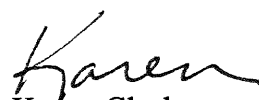
April 4, 2003

Dear Colleague:

There has been a good deal of discussion this session regarding the treatment of GLBT people by the Nazi regime in the 1930's and 40's. The United States Holocaust Memorial Museum has generously provided us with a brief overview of their exhibit on the persecution of our community; we hope you will find the attached brochure informative. We would be more than happy to discuss this subject in more detail. Call us anytime.

Very truly yours,

  
D. Scott Dibble  
State Senator, District 60

  
Karen Clark  
State Representative, District 61A

COMMITTEES: Environment, Agriculture and Economic Development Budget Division; State and Local Government Operations; Transportation Policy and Budget Division



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## House Ethics Committee Structure and Procedural Issues

Deborah K. McKnight, House Research Department  
June 18, 2003

The following items come up from time to time as questions from members of the committee.

**Committee jurisdiction:** Under the state constitution, the House has the power to punish its members for disorderly conduct. Courts around the country (there are no Minnesota cases) that have had to interpret this phrase find the power is very broad and largely within the body's discretion to define. House Rule 6.10 gives the Ethics Committee jurisdiction over complaints "about conduct by a member that violates a rule or administrative policy of the House, that violates accepted norms of House behavior, that betrays the public trust, or that tends to bring the House into dishonor or disrepute."

Since 1973, complaints have been brought for violations of House rules, statutes, and for conduct that did not violate a rule or statute but that complainants apparently believed violated accepted norms of House behavior, betrayed the public trust, or tended to bring the house into dishonor or disrepute, to paraphrase the rule. In short, members have had to answer to the Ethics Committee for the same conduct that also brought them before the criminal court courts or before an executive agency like the Campaign Board.

Traditionally, the committee has not been thought to have jurisdiction to hear election contests, but there is no formal precedent on this. There have been no election contests in the House since the standing Ethics Committee was created in 1989.

**Committee composition:** Since at least the 1986 select committee was established, the House select and standing ethics committees have always had an equal number of members from both parties. The committee size has ranged from four to ten. For many years there have been four members with an alternate from each party.

During the 1997-98 biennium the Speaker appointed one member of each party to serve as co-chair of the committee. At all other times, a member of the majority party has chaired the committee. In recent years, the Speaker has appointed a minority party member as vice-chair.

**Attorney General role:** The question has been raised whether the Attorney General could have a role in investigating legislative ethics complaints or advising the committee on them. Minn. Stat. § 8.03 allows a standing legislative committee to ask the Attorney General for a written opinion on any question of law. In the case of legislative ethics proceedings, that statute is probably superseded by the constitutional provision that gives each body authority over the misconduct of its members. Minn. Const., art. IV, s 7.

member who breaches the confidentiality of executive session is subject to an ethics complaint. Staff who violate confidentiality are subject to employee discipline measures.

**Subpoenas:** The complainants and member complained about have the right to subpoena witnesses and documents. The committee also has this right, though it has not so far exercised it on behalf of itself. Instead, following procedures for legislative subpoena under Minn. Stat. s3.153, the committee has directed the Chief Clerk of the House to issue subpoenas at the request of either complaints or the member complained of.

A party wishing subpoenas must request that the committee authorize them. A written request is good for the committee records.

Pursuant to Minn. Stat. §3.153, the committee must vote by two-thirds to issue subpoenas. If the witnesses or documents are requested for a hearing to be held in less than seven days, a majority of the committee must vote separately for the shorter time period. Witnesses subpoenaed by the legislature are entitled to the same fee that is provided by statute for witnesses in court.

Subpoenas have only been issued twice in connection with a complaint. If the committee approves subpoenas, the chair sends a letter to the Chief Clerk requesting that subpoenas be issued. In 1996, when subpoenas were issued in two matters, blank forms were signed for witnesses being requested to appear. (i.e., the committee did not get involved in deciding which individuals were requested to appear, though they did ask for a list of witnesses from both sides in the Bertram case). In one of the 1996 cases, where documents were requested from a third party, the subpoena form signed by the Chief Clerk described the documents being requested.

The parties apparently served the subpoenas and accompanying forms in 1996, though there was some discussion of having the sergeant's office staff do it.

In the 2003 complaint, the representative's attorney announced at a press conference that he intended to subpoena the complainants and only the complainants (he did not indicate why he thought he needed to subpoena them). At a meeting on March 31, 2003, the committee by a tie vote refused to authorize the subpoenas.

**Announcing no probable cause finding:** If the committee finds there is probable cause to support a complaint and recommends that the House take some action, it makes a report to the floor. Members have asked how to proceed if there is no finding of probable cause, since the rules do not address this issue. On one occasion, the committee simply voted "no probable cause" in a public session and adjourned. On another occasion it issued a brief statement as part of its finding.

**Discipline options:** The Ethics Committee has very limited power to impose consequences on members complained about. For the most part the committee is limited to making recommendations for action by the full House. The committee's rules provide several options for responding to a complaint on a continuum from finding the complaint

frivolous and reprimanding the complaints to recommending that the House expel a member. These options are laid out on the flow chart of the complaint process.

**Code of conduct:** In 1995 the House Rules Committee adopted House Rule 9.01 calling for a code of ethics to be adopted by the Rules Committee on recommendation of the Ethics Committee. The Ethics Committee and Rules Committee adopted the 1995 code without change every subsequent biennium through 2001. In 2003 the Ethics Committee reviewed the existing code but did not act on it. Members noted that the code applies to members and staff and that some of the provisions do not logically apply to employees as opposed to members. They expressed an interest in further study of the issue before taking action.

# Research Department

Thomas Todd, Director

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[www.house.leg.state.mn.us/hrd/hrd.htm](http://www.house.leg.state.mn.us/hrd/hrd.htm)



# Minnesota House of Representatives

July 21, 2003

TO: Representative Sondra Erickson

FROM: Deborah K. McKnight, Legislative Analyst (651-296-5056) *Deb*

RE: Sample Legislative Ethics Codes

I have reviewed statutes and legislative rules from several states. To reduce bulk and repetition, I took the following approach.

I enclose as your local reference points the Minnesota House Ethics Code, Minnesota Senate Ethics Code, and the executive branch employee ethics code found in Minn. Stat. §43A.38.

I enclose legislative ethics codes from two jurisdictions so you can see some complete documents. I enclose the Iowa House and Senate ethics codes because Iowa is a neighboring state, its codes cover employees as well as members, and its codes appear in legislative rules. I enclose Illinois's legislative code because it is in statute rather than rule, covers only members, and is much briefer than Iowa's ethics codes.

In addition to these states, I have materials from a dozen other states. Because the substance of these codes duplicates provisions found in the codes I am sending you, at this point I will only summarize the topics covered in various codes (see page 2). If you want full copies of more codes either now or at any later time, let me know.

## **"Structural" issues**

As noted above, states differ in whether their legislative ethics codes are placed in statute or legislative rule. Some may adopt codes in the form of policy other than rule (like the Minnesota House), because in some states I found a statutory directive that the house and senate to adopt codes, but there was no code in statutes or rule.

Some legislative ethics committees issue advisory opinions on issues covered by their ethics codes. Others just take complaints about violations. Some ethics codes regulate conduct that would be to the benefit of legislators' family members or clients; others only govern actions affecting the member's own interests.

## **Policy Statements; Scope**

More than one state code (1) covers both members and staff and (2) recognizes that legislative ethics issues must be considered in the context of members who serve part-time and legitimately have outside careers.

## **Issues typically covered in legislative ethics codes**

Some of the following issues are of course already addressed in Minnesota Statutes. This list is meant to be exhaustive for topics I have found in other states and includes some intriguing unique provisions. The details of a given topic vary among the states (e.g., some states prohibit all gift taking; others merely require disclosure). If you want details on provisions affecting any given topic, let me know.

- gifts: prohibited, limited, or required to be reported
- use of confidential official information to further personal interests
- use of state property or time to further personal interests or for campaign purposes
- restrictions on contracts with government entities
- disclosure or refraining from voting in the case of financial conflicts of interest
- restrictions on employing relatives
- suggestion that legislators not represent clients before state agencies
- use of office to improperly influence government agency actions
- prohibition on paid lobbying or receipt of any income for legislative work (other than state salary)
- requirement that a legislator charge the same for property or services in private life to both those who have and those who do not have an interest in legislative business
- prohibition on being employed by a political committee other than a party unit or candidate's committee
- prohibition on legislators getting preferable rates or other benefits (from entities interested in legislation) that are not available to the general public
- sexual harassment prohibited
- economic interest disclosures required
- ban on lobbying for a period after leaving office
- required compliance with various state statutes bearing on integrity issues (e.g. bribery, etc.)
- "ghost" employees prohibited (unique to the Massachusetts Senate)
- prohibition on contacting a third party to get that person to threaten another member in order to get the other member to act improperly (unique to North Carolina)

Please let me know if you have follow up questions on any of this.

DKM/ks

Enclosures

cc: Blair Tremere, Ethics Committee Administrator

## CODE OF CONDUCT

### MINNESOTA HOUSE OF REPRESENTATIVES

1 A State Representative shall:

2  
3 Accept public office as a public trust and endeavor to be worthy of that trust – by  
4 respecting the principles of representative democracy, by exemplifying good citizenship and high  
5 personal integrity, and by observing the letter and spirit of laws and rules.  
6

7 Promote the health of democracy – by fostering openness in government, full public  
8 understanding of government actions, and public participation in governmental processes.  
9

10 Treat everyone with respect, fairness, and courtesy.  
11

12 Exercise sound judgment by deciding issues on their merits.  
13

14 Be respectful of the House of Representatives as a fundamental institution of civil  
15 government.  
16

17 Use the power and facilities of office only to advance the common good.  
18

19 Respect and maintain confidential information obtained as a public official.  
20  
21  
22  
23  
24

---

25 TIM PAWLENTY, CHAIR

DATE



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

#### 56. Standards of ethical conduct

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

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

56.3 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.

#### 57. Conflicts of interest

A member who in the discharge of senatorial duties would be required to take an action or make a decision that would substantially affect the member's financial interests or those of an associated business, unless the effect on the member is no greater than on others in the member's business classification, profession, or occupation, shall disclose the potential conflict of interest by following the procedure set forth in Minnesota Statutes, section 10A.07.

#### 58. Lobbyists

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

knowingly furnish false or misleading information or make a false or misleading statement that is relevant and material to a matter before the Senate or any of its committees when the lobbyist knows or should know it will influence the judgment or action of the Senate or any of its committees, subcommittees, or divisions.

58.2 The Subcommittee on Ethical Conduct shall investigate a complaint by a member of the Senate in writing under oath received during a legislative session that a lobbyist has violated Rule 58.1. The investigatory procedures of Rule 55 apply, except as provided in this rule. The complaint and proceedings on the complaint are private until the subcommittee has found probable cause to believe that a violation of Rule 58.1 has occurred unless they are made public by the lobbyist whose conduct is the subject of the complaint or by the vote of at least three members of the subcommittee.

#### 59. Amendments to rules

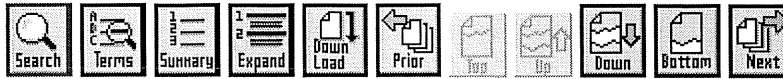
Every proposition to amend a rule of the Senate must be referred to the Committee on Rules and Administration. The proposition may not be acted upon until the report of the committee is received by the Senate.

2003





## Minnesota Statutes 2002 Display Document 6 of 30

**Chapter Title:** DEPARTMENT OF EMPLOYEE RELATIONS**Section:** 43A.38**Text:** ☒

43A.38 Code of **ethics** for employees in the executive branch.

Subdivision 1. Definitions. For the purpose of this section the following definitions shall apply:

(a) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual or any other legal entity which engages either in nonprofit or profit making activities.

(b) "Confidential information" means any information obtained under government authority which has not become part of the body of public information and which, if released prematurely or in nonsummary form, may provide unfair economic advantage or adversely affect the competitive position of an individual or a business.

(c) "Private interest" means any interest, including but not limited to a financial interest, which pertains to a person or business whereby the person or business would gain a benefit, privilege, exemption or advantage from the action of a state agency or employee that is not available to the general public.

Subd. 2. Acceptance of gifts; favors. Employees in the executive branch in the course of or in relation to their official duties shall not directly or indirectly receive or agree to receive any payment of expense, compensation, gift, reward, gratuity, favor, service or promise of future employment or other future benefit from any source, except the state for any activity related to the duties of the employee unless otherwise provided by law. However, the acceptance of any of the following shall not be a violation of this subdivision:

(a) Gifts of nominal value or gifts or textbooks which may be accepted pursuant to section 15.43.

(b) Plaques or similar mementos recognizing individual services in a field of specialty or to a charitable cause.

(c) Payment of reimbursement expenses for travel or meals,

not to exceed actual expenses incurred, which are not reimbursed by the state and which have been approved in advance by the appointing authority as part of the work assignment.

(d) Honoraria or expenses paid for papers, talks, demonstrations, or appearances made by employees on their own time for which they are not compensated by the state.

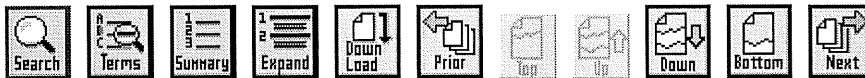
(e) Tips received by employees engaged in food service and room cleaning at restaurant and lodging facilities in Itasca State Park.

Subd. 3. Use of confidential information. An employee in the executive branch shall not use confidential information to further the employee's private interest, and shall not accept outside employment or involvement in a business or activity that will require the employee to disclose or use confidential information.

Subd. 4. Use of state property. (a) An employee shall not use or allow the use of state time, supplies or state-owned or leased property and equipment for the employee's private interests or any other use not in the interest of the state, except as provided by law.

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**5 ILCS 420/**

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(5 ILCS 420/)

PART 2. ETHICAL PRINCIPLES FOR LEGISLATORS

(5 ILCS 420/3-201)

Sec. 3-201. Where feasible, and taking into account the fact that legislative service is part-time, a legislator should avoid accepting or retaining an economic opportunity which presents a substantial threat to his independence of judgment.

(Source: Laws 1967, p. 3401.)

(5 ILCS 420/3-202)

Sec. 3-202. When a legislator must take official action on a legislative matter as to which he has a conflict situation created by a personal, family, or client legislative interest, he should consider the possibility of eliminating the interest creating the conflict situation. If that is not feasible, he should consider the possibility of abstaining from such official action. In making his decision as to abstention, the following factors should be considered;

a. whether a substantial threat to his independence of judgment has been created by the conflict situation;

b. the effect of his participation on public confidence in the integrity of the legislature;

c. whether his participation is likely to have any significant effect on the disposition of the matter;

d. the need for his particular contribution, such as special knowledge of the subject matter, to the effective functioning of the legislature.

He need not abstain if he decides to participate in a manner contrary to the economic interest which creates the conflict situation.

If he does abstain, he should disclose that fact to his respective legislative body.

(Source: Laws 1967, p. 3401.)

(5 ILCS 420/3-203)

Sec. 3-203. When, despite the existence of a conflict situation, a legislator chooses to take official action on a matter, he should serve the public interest, and not the interest of any person.

(Source: Laws 1967, p. 3401.)

(5 ILCS 420/3-204)

Sec. 3-204. No legislator should accept a representation case unless he believes there is merit to the position he is asked to represent.

(Source: Laws 1967, p. 3401.)

(5 ILCS 420/3-205)

Sec. 3-205. A legislator participating in a representation case shall, wherever feasible, arrange for other persons to make appearances before the State agency.

(Source: Laws 1967, p. 3401.)

(5 ILCS 420/3-206)

Sec. 3-206.

Sections 3-201 through 3-205 are intended only as guides to legislator conduct, and not as rules meant to be enforced by disciplinary action.

(Source: P.A. 77-1806.)

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(5 ILCS 420/)

PART 1. RULES OF CONDUCT FOR LEGISLATORS

(5 ILCS 420/3-101)

Sec. 3-101. (Repealed).

(Source: Laws 1967, p. 3401. Repealed by P.A. 90-737, eff. 1-1-99.)

(5 ILCS 420/3-102)

Sec. 3-102. No legislator may accept any economic opportunity, under circumstances where he knows or should know that there is a substantial possibility that the opportunity is being afforded him with intent to influence his conduct in the performance of his official duties.

(Source: Laws 1967, p. 3401.)

(5 ILCS 420/3-103)

Sec. 3-103. No legislator may charge to or accept from a person known to have a legislative interest a price, fee, compensation or other consideration for the sale or lease of any property or the furnishing of services which is substantially in excess of that which the legislator would charge in the ordinary course of business.

(Source: Laws 1967, p. 3401.)

(5 ILCS 420/3-104)

Sec. 3-104. No legislator in order to further his own economic interests, or those of any other person, may disclose or use confidential information acquired in the course of his official duties.

(Source: Laws 1967, p. 3401.)

(5 ILCS 420/3-105)

Sec. 3-105. No legislator may accept a representation case where there is substantial reason for him to believe that it is being offered with intent to obtain improper influence over a State agency.

(Source: Laws 1967, p. 3401.)

(5 ILCS 420/3-106)

Sec. 3-106. No legislator may use or attempt to use improper means to influence a State agency in any representation case in which the legislator or any person with whom he maintains a close economic association is participating.

(Source: Laws 1967, p. 3401.)

(5 ILCS 420/3-107)

Sec. 3-107. No legislator may engage in other conduct which is unbecoming to a legislator or which constitutes a breach of public trust.

(Source: Laws 1967, p. 3401.)

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(5 ILCS 420/)

ARTICLE 2. RESTRICTED ACTIVITIES

(5 ILCS 420/2-101)

Sec. 2-101. No legislator may engage in lobbying, as that term is defined in Section 1-109, if he accepts compensation specifically attributable to such lobbying, other than that provided by law for members of the General Assembly. Nothing in this Section prohibits a legislator from lobbying without compensation.

A violation of this Section shall constitute a Class A misdemeanor.  
(Source: P.A. 77-2830.)

(5 ILCS 420/2-103)

Sec. 2-103.

No legislator may accept compensation, other than that provided by law for members of the General Assembly, for performance of his official legislative duties. No person, other than State officials or employees performing their duties in making payments to members of the General Assembly as provided by law, may pay or offer to pay any legislator any compensation for performance of his official legislative duties.

A violation of this Section is a petty offense.  
(Source: P. A. 78-255.)

(5 ILCS 420/2-104)

Sec. 2-104.

No legislator may accept or participate in any way in any representation case, as that term is defined in Section 1-113, before (1) the Court of Claims of this State or (2) before the Industrial Commission of this State, when the State of Illinois is the respondent.

This Section does not prohibit participation in such a representation case by a person with whom the legislator maintains a close economic association, unless the fact of that association is used to influence or attempt to influence the State agency in the rendering of its decision.

A violation of this Section is a Class A misdemeanor.  
(Source: P. A. 78-695.)

(5 ILCS 420/2-110)

Sec. 2-110. Honoraria.

(a) No member of the General Assembly shall accept any honorarium.

(b) As used in this Section:

"Honorarium" means a payment of money to a member of the General Assembly for an appearance or speech, excluding any actual and necessary travel expenses incurred by the member of the General Assembly (and one relative) to the extent that those expenses are paid by any other

person. "Honorarium" does not include (i) cash payments made on behalf of a member of the General Assembly to an organization described under Section 501(c)(3) of the Internal Revenue Code of 1986, (ii) an agent's fee or commission, or (iii) funds reported under Article 9 of the Election Code.

"Travel expense" means the reasonable cost of transportation and the reasonable cost of lodging and meals incurred while a person is away from his or her residence or principal place of employment.

(c) Any honorarium or honoraria accepted in violation of this Section shall be surrendered to the State Treasurer and deposited into the General Revenue Fund.

(Source: P.A. 89-405, eff. 11-8-95.)

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# The Iowa Legislature

## General Assembly

### Chamber Rules

#### HOUSE CODE OF ETHICS

(H.R. 6 - Adopted 2-4-03)

*Includes  
employees*

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PREAMBLE. Every legislator and legislative employee has a duty to uphold the integrity and honor of the general assembly, to encourage respect for the law and for the general assembly and to observe the house code of ethics. The members and employees of the house have responsibility to conduct themselves so as to reflect credit on the general assembly, and to inspire the confidence, respect, and trust of the public. The following rules are adopted pursuant to chapter 68B of the Code, to assist the members and employees in the conduct of their activities:

1. DEFINITIONS. The definitions of terms provided in chapter 68B of the Code apply to the use of those terms in these rules.

#### 2. ECONOMIC INTEREST OF MEMBER OR EMPLOYEE OF HOUSE.

a. Economic or investment opportunity. A member or employee of the house shall not solicit or accept economic or investment opportunity under circumstances where the member or employee knows, or should know, that the opportunity is being afforded with the intent to influence the member's or employee's conduct in the performance of official duties. If a member or employee of the house learns that an economic or investment opportunity previously accepted was offered with the intent of influencing the member's or employee's conduct in the performance of the official duties, the member or employee shall take steps to divest that member or employee of that investment or economic opportunity, and shall report the matter in writing to the chairperson of the house ethics committee.

b. Excessive charges for services, goods, or property interests. A member or employee of the house shall not charge to or accept from a person known to have a legislative interest, price, fee, compensation, or other consideration for the sale or lease of any property or the furnishing of services which is in excess of that which the member or employee would ordinarily charge another person.

c. Use of confidential information. A member or employee of the house, in order to further the member's or employee's own economic interests, or those of any other person, shall not disclose or use confidential information acquired in the course of the member's or employee's official duties. For the purpose of this rule, information disclosed in open session at a public meeting under chapter 21 of the Code and information that is a public record under chapter 17 of the Code is not confidential information.

d. Employment. A member or employee of the house shall not accept employment, either directly or indirectly, from a political action committee. A member of the house shall not act as a paid lobbyist for any organization. However, this paragraph shall not prohibit a member or employee of the house from working for a candidate's committee, a political party's action committee, or a political action committee which does not expressly advocate the nomination, election, or defeat of a candidate for public office in this state or expressly advocate the passage or defeat of a ballot issue in this state and which is not interested in issues before the general assembly.

For the purpose of this rule, a political action committee means a committee, but not a candidate's committee, which accepts contributions, makes expenditures, or incurs indebtedness in the aggregate of more than seven hundred fifty dollars in any one calendar

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year to expressly advocate the nomination, election, or defeat of a candidate for public office or to expressly advocate the passage or defeat of a ballot issue or for the purpose of influencing legislative action.

e. A member or employee of the house shall not solicit employment on behalf of the member or employee, or on behalf of another legislator or employee, as a lobbyist while the general assembly is in session.

f. Certain goods or services. A member or employee of the house shall not solicit or obtain goods or services from another person under circumstances where the member or employee knows or should know that the goods or services are being offered or sold with the intent to influence the member's or employee's conduct in the performance of official duties. If a member or employee of the house is afforded goods or services by another person at a price that is not available to other members or classes of members of the general public or is afforded goods or services that are not available to other members or classes of members of the general public by another person where the member or employee knows or should know that the other person intends to influence the member's or employee's official conduct, the member or employee shall not take or purchase the goods or services.

3. APPEARANCE BEFORE STATE AGENCY. A member or employee of the house may appear before a state agency in any representation case but shall not act as a lobbyist with respect to the passage, defeat, approval, veto, or modification of any legislation, rule, or executive order. Whenever a member or employee of the house appears before a state agency, the member or employee shall carefully avoid all conduct which might in any way lead members of the general public to conclude that the member or employee is using the member's or employee's official position to further the member's or employee's professional success or personal financial interest.

4. CONFLICTS OF INTEREST. In order for the general assembly to function effectively, members of the house may be required to vote on bills and participate in committee work which will affect their employment and other areas in which they may have a monetary interest. Action on bills and committee work which furthers a member's specific employer's specific investment, or other specific interest, as opposed to the interests of the public in general or the interests of a profession, trade, business, or other class of persons, shall be avoided. In making a decision relative to a member's activity on particular bills or in committee work, the following factors should be considered:

a. Whether a substantial threat to the member's independence of judgment has been created by the conflict situation.

b. The effect of the member's participation on public confidence in the integrity of the general assembly.

c. Whether the member's participation is likely to have any significant effect on the disposition of the matter.

d. The need for the member's particular contribution, such as special knowledge of the subject matter, to the effective functioning of the general assembly.

If a member decides not to participate in committee work or to abstain from voting because of a possible conflict of interest, the member should disclose this fact to the legislative body. The member shall not vote on any question in which the member has an economic interest that is distinguishable from the interests of the general public or a substantial class of persons.

5. STATUTORY REQUIREMENTS. Members and employees of the house shall comply with the requirements contained in chapters 68B (Conflicts of Interest of Public Officers and Employees), 721 (Official Misconduct), and 722 (Bribery and Corruption), and sections 2.16 (Contempt) and 711.4 (Extortion) of the Code.

6. CHARGE ACCOUNTS. Members and employees of the house shall not charge any amount or item to a charge account to be paid for by a lobbyist or any client of

7. TRAVEL EXPENSES. A member or employee of the house shall not charge to the s of Iowa amounts for travel and expenses unless the member or employee actually has incurred those mileage and expense costs. Members or employees shall not file the voucher for weekly mileage reimbursement required by section 2.10, subsection 1 of the Code, unless the travel expense was actually incurred.

A member or employee of the house shall not file a claim for per diem compensation for meeting of an interim study committee or a visitation committee unless the member or employee attended the meeting. However, the speaker may waive this provision and allow claim to be filed if the member or employee attempted to attend the meeting but was unable to do so because of circumstances beyond the member's or

8. GIFTS ACCEPTED OR RECEIVED. Members and employees of the house shall comply with the restrictions relating to the receipt or acceptance of gifts contained in section 68B.22 of the Code.

9. HONORARIA RESTRICTIONS. Members and employees of the house shall comply with the restrictions relating to the receipt of honoraria contained in section 68B.23 of the Code.

10. DISCLOSURE REQUIRED. Each member of the house and the chief clerk of the house shall file the personal financial disclosure statements required under section 68B.35 of the Code by February 15 of each year for the prior calendar year.

11. SEXUAL HARASSMENT. Members and employees of the house shall not engage in conduct which constitutes sexual harassment as defined in section 19B.12 of the Code or pursuant to the sexual harassment policy adopted by the house committee on administrative and rules.

#### 12. COMPLAINTS.

a. Filing of complaint. Complaints may be filed by any person believing that a member or employee of the house, a lobbyist, or a client of a lobbyist is guilty of a violation of the house code of ethics, the house rules governing lobbyists, or chapter 68B of the Code.

b. Complaints by committee. The ethics committee may initiate a complaint on its own motion. Committee complaints may be initiated by the committee as a result of a committee investigation or as a result of receipt of any complaint or other information that does not meet the requirements of these rules regarding the form of a complaint but that contains allegations that would form the basis for a valid complaint.

c. Form and contents of complaint. A complaint shall be in writing.

Complaint forms shall be available from the chief clerk of the house, but a complaint shall not be rejected for failure to use the approved form if it complies with the requirements of these rules. The complaint shall contain a certification made by the complainant, under penalty of perjury, that the facts stated in the complaint are true to the best of the complainant's knowledge.

To be valid, a complaint shall allege all of the following:

(1) Facts, including the approximate date and location of any event, incident, or transaction that, if true, establish a violation of a provision of chapter 68B of the Code, the house code of ethics, or house rules governing lobbyists for which penalties or other remedies are provided.

(2) That the conduct providing the basis for the complaint occurred within three years of the filing of the complaint.

(3) That the party charged with a violation is a member or employee of the house, a lobbyist, or a client of a lobbyist.

d. Confidentiality of complaint. The filing of the complaint and the contents of the complaint shall be confidential until the time that the committee meets to determine whether the complaint is valid, unless either the complainant or the party charged in the complaint makes the existence of, or the information contained in, the complaint public. However, if either the complainant or party alleged to have committed the violation requests that the meeting to determine whether the complaint is valid be a closed meeting and the filing of the complaint or the contents of the complaint have not been disclosed, the meeting shall be closed.

e. Notice of complaint. Upon receipt of the complaint, the chief clerk of the house shall promptly notify the chairperson and ranking member of the ethics committee that a complaint has been filed and provide both the chairperson and the ranking member with copies of the complaint and any supporting information. Within two working days, the chief clerk shall send notice, either by personal delivery or by certified mail, return receipt requested, to the person or persons alleged to have committed the violation, along with a copy of the complaint and supporting information. The notice to the accused person shall contain a request that the person submit a written response to the complaint within ten working days of the date that the notice was sent by the chief clerk. At the request of the accused person, the committee may extend the time for the response, not to exceed ten additional calendar days.

f. Hearing regarding validity of complaint. The committee chairperson and the ranking member shall review the complaint and supporting information to determine whether the complaint meets the requirements as to form. If the complaint is deficient as to form, the complaint shall be returned to the complainant with instructions indicating the deficiency unless the committee decides to proceed on its own motion. If the complaint is in writing and contains the appropriate certification, as soon as practicable, the chairperson shall call a meeting of the committee to review the complaint to determine whether the complaint meets the requirements for validity and whether the committee should request that the chief justice of the supreme court appoint an independent special counsel to conduct an investigation to determine whether probable cause exists to believe that a violation of the house code of ethics, house rules governing lobbyists, or chapter 68B of the Code, has occurred.

If the committee finds that a complaint does not meet the content requirements for a valid complaint, the committee shall dismiss the complaint and notify both the complainant and the party alleged to have committed the violation of the dismissal and the reasons for dismissal. Dismissal for failure to meet the formal requirements for the filing of a complaint shall be without prejudice and the complainant may refile the complaint at any time within three years of the date that the alleged violation took place. If the dismissal is based upon a failure to allege facts and circumstances necessary for a valid complaint, the dismissal shall be with prejudice and the party shall not be permitted to file a complaint based upon the same facts and circumstances.

g. Request for appointment of independent special counsel. If, after review of the complaint and any response made by the party alleged to have committed the violation, the committee determines that the complaint meets the requirements for form and content, the committee shall request that the chief justice of the supreme court appoint independent special counsel to investigate the matter and determine whether probable cause exists to believe that a violation of chapter 68B of the Code, the house code of ethics, or the house rules governing lobbyists has occurred.

h. Receipt of report of independent special counsel. The report from independent special counsel regarding probable cause to proceed on a complaint shall be filed with the chief clerk of the house. Upon receipt of the report of the independent special counsel, the chief clerk shall notify the chairperson of the filing of the report and shall send copies of the report to the

members of the ethics committee. As soon as practicable after the filing of the report, the chairperson shall schedule a public meeting for review of the report. The purpose of the public meeting shall be to determine whether the complaint should be dismissed, whether a formal hearing should be held on the complaint, or whether other committee action is appropriate. The complainant and the person alleged to have committed the violation shall be given notice of the public meeting, shall have the right to be present at the public meeting, and may, at the discretion of the committee, present testimony in support of or against the recommendation contained in the report.

If the committee determines that the matter should be dismissed, the committee shall cause an order to be entered dismissing the matter and notice of the dismissal shall be given to the complainant and the party alleged to have committed the violation. If the committee determines that the complaint should be scheduled for formal hearing, the committee shall issue a charging statement which contains the charges and supporting facts that are to be used for formal hearing and notice shall be sent to the complainant and the accused person.

The notice shall include a statement of the nature of the charge or charges, a statement of the time and place of hearing, a short and plain statement of the facts asserted, and a statement of the rights of the accused person at the hearing.

i. Formal hearing. Formal hearings shall be public and conducted in the manner provided in section 68B.31, subsection 8 of the Code. At a formal hearing the accused shall have the right to be present and to be heard in person and by counsel, to cross-examine witnesses, to present evidence. Members of the committee shall also have the right to question witnesses.

Evidence at the formal hearing shall be received in accordance with rules and procedures applicable to contested cases under chapter 17A of the Code.

The committee chairperson, or the vice chairperson or ranking member in the absence of the chairperson, shall preside at the formal hearing and shall rule on the admissibility of any evidence received. The ruling of the chairperson may be overturned by a majority vote of the committee. Independent special counsel shall present the evidence in support of the charges. The burden shall be on the independent special counsel to prove the charge or charges by a preponderance of clear and convincing evidence. Upon completion of the formal hearing, the committee shall adopt written findings of fact and conclusions concerning the merits of the charges and make its report and recommendation to the house.

j. Recommendations by the committee. The committee shall recommend to the house that the complaint be dismissed, or that one or more of the following be imposed:

(1) That the member or employee of the house or lobbyist or client of a lobbyist be censured or reprimanded, and the recommended appropriate form of censure or reprimand be used.

(2) That the member of the house be suspended or expelled from membership in the house and required to forfeit the member's salary for that period, the employee of the house be suspended or dismissed from employment, or that the lobbyist's or lobbyist's client's lobbying privileges be suspended.

13. COMMUNICATIONS WITH ETHICS COMMITTEE. After a complaint has been filed, an investigation has been initiated, a party to the complaint or investigation shall not communicate, or cause another to communicate, as to the merits of the complaint or investigation with a member of the committee, except under the following circumstances:

a. During the course of any meetings or other official proceedings of the committee regarding the complaint or investigation.

b. In writing, if a copy of the writing is delivered to the adverse party or the designated



representative for the adverse party.

c. Orally, if adequate prior notice of the communication is given to the adverse party or designated representative for the adverse party.

d. As otherwise authorized by statute, the house code of ethics, house rules governing lobbyists, or vote of the committee.

14. PERMANENT RECORD. The chief clerk of the house shall maintain a permanent record of all complaints filed and any corresponding committee action. The permanent record shall be prepared by the ethics committee and shall contain the date the complaint was filed, name and address of the complainant, name and address of the accused person, a brief statement of the charges made, any evidence received by the committee, any transcripts or recordings of committee action, and ultimate disposition of the complaint. The chief clerk shall keep each complaint confidential until public disclosure is made by the ethics committee.

15. MEETING AUTHORIZATION. The house ethics committee is authorized to meet at the discretion of the committee chairperson in order to conduct hearings and other business that properly may come before it. If the committee submits a report seeking house action against a member or employee of the house or lobbyist after the second regular session of general assembly has adjourned sine die, the report shall be submitted to and considered at the subsequent general assembly.

#### 16. ADVISORY OPINIONS.

a. Requests for formal opinions. A request for a formal advisory opinion may be filed by any person who is subject to the authority of the ethics committee. The ethics committee may also issue a formal advisory opinion on its own motion, without having previously received a formal request for an opinion, on any issue that is within the jurisdiction of the committee. Requests shall be filed with either the chief clerk of the house or the chairperson of the ethics committee.

b. Form and contents of requests. A request for a formal advisory opinion shall be in writing and may pertain to any subject matter that is related to application of the house code of ethics, the house rules governing lobbyists, or chapter 68B of the Code to any person who is subject to the authority of the ethics committee. Requests shall contain one or more specific questions and shall relate either to future conduct or be stated in the hypothetical. A request for an advisory opinion shall not specifically name any individual or contain any other specific identifying information, unless the request relates to the requester's own conduct. However, any request may contain information which identifies the kind of individual who may be affected by the subject matter of the request. Examples of this latter kind of identifying information may include references to conduct of a category of individuals, such as but not limited to conduct of legislators, legislative staff, or lobbyists.

c. Confidentiality of formal requests and opinions. Requests for formal opinions are not confidential and any deliberations of the committee regarding a request for a formal opinion shall be public. Opinions issued in response to requests for formal opinions are not confidential, shall be in writing, and shall be placed on file in the office of the chief clerk of the house. Persons requesting formal opinions shall personally receive a copy of the written formal opinion that is issued in response to the request.

17. PERSONAL FINANCIAL DISCLOSURE FORM. The following form shall be used for disclosure of economic interests under these rules and section 68B.35 of the Code:

#### STATEMENT OF ECONOMIC INTERESTS

Name: \_\_\_\_\_

(Last) (First) (Middle Initial)

Address: \_\_\_\_\_

(Street Address, Apt.#/P.O. Box)

\_\_\_\_\_

(City) (State) (Zip)

Phone:(Home)\_\_\_\_/\_\_\_\_-\_\_\_\_(Business)\_\_\_\_/\_\_\_\_-\_\_\_\_

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This form is due each year on or before February 15. The reporting period is the most recently completed calendar year.

In completing Division III of this form, if your percentage of ownership of an asset is less than 100 percent, multiply your percentage of ownership by the total revenue produced to determine if you have reached the \$1,000 threshold.

Do not report income received by your spouse or other family members.

In completing this form, if insufficient space is provided for your answer, you may attach additional information/answers on full-size sheets of paper. Division I. Business, Occupation Profession.

List each business, occupation, or profession in which you are engaged, the nature of the business if not evident, and your position or job title. No income threshold or time requirement applies.

Examples:

If you are employed by an individual, state the name of the individual employer, the name of the business, and your position.

If you are self-employed and are not incorporated or are not doing business under a particular business name, state that you are self-employed, the nature of the business, and your position.

If you own your own corporation, are employed by a corporation, or are doing business under a particular business name, state the name and nature of the business or corporation and your position.

1 \_\_\_\_\_

2 \_\_\_\_\_

3 \_\_\_\_\_

4 \_\_\_\_\_

5 \_\_\_\_\_

6 \_\_\_\_\_

## Division II. Commissions from Sales of Goods or Services to Political Subdivisions.

This part is to be completed only by Legislators. If you received income in the form of a commission from the sale of goods or services to a political subdivision, state the name of the purchasing political subdivision. The amount of commission earned is not required to be listed.

- 1 \_\_\_\_\_
- 2 \_\_\_\_\_
- 3 \_\_\_\_\_
- 4 \_\_\_\_\_
- 5 \_\_\_\_\_
- 6 \_\_\_\_\_

## Division III. Sources of Gross Income.

In each one of the following categories list each source which produces more than \$1,000 in annual gross income, if the revenue produced by the source was subject to federal or state income taxes last year. List the nature or type of each company, business, financial institution, corporation, partnership, or other entity which produces more than \$1,000 of annual gross income. Neither the amount of income produced nor value of the holding is required to be listed in any of the items.

A. Securities: State the nature of the business of any company in which you hold stock, bonds, or other pecuniary interests that generate more than \$1,000 in annual gross income. Income generated by multiple holdings in a single company are deemed received from a single source.

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B. Instruments of Financial Institutions: State the types of institutions in which you hold financial instruments, such as certificates of deposit, savings accounts, etc., that produce annual gross income in excess of \$1,000, e.g., banks, savings and loans, or credit unions.

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C. Trusts: State the nature or type of any trust from which you receive more than \$1,000 of gross income annually.

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D. Real Estate: State the general nature of real estate interests that generate more than \$1,000 of gross income annually, e.g., residential leasehold interest or farm leasehold interest. The size or location of the property interest is not required to be listed.

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E. Retirement Systems: State the name of each pension plan or other corporation or company that pays you more than \$1,000 annually in retirement benefits.

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F. Other Income Categories Specified in State and Federal Income Tax Regulations.

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(Signature of Filer)

(Date)

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# The Iowa Legislature General Assembly

## Chamber Rules

**SENATE CODE OF ETHICS**  
(S.R. 3 - Adopted 2-6-03)

*Members only*

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**PREAMBLE.** Every legislator owes a duty to uphold the integrity and honor of the general assembly, and to respect for the law and for the general assembly and the members thereof, and to observe ethics.

In doing so, members of the senate have a duty to conduct themselves so as to reflect credit to the assembly, and to inspire the confidence, respect, and trust of the public, and to strive to avoid illegal conduct and the appearance of unethical and illegal conduct.

Recognizing that service in the Iowa general assembly is a part-time endeavor and that members of the assembly are honorable individuals who are active in the affairs of their localities and elsewhere, and it is necessary that they maintain a livelihood and source of income apart from their legislative service, the following rules are adopted pursuant to section 68B.31, to assist the members in the conduct of their affairs.

**1. ECONOMIC INTEREST OF SENATOR.** Taking into account that legislative service is part-time, a senator shall not accept economic or investment opportunity, under circumstances where the senator knows that there is a reasonable possibility that the opportunity is being afforded the senator with the senator's conduct in the performance of official duties.

**2. DIVESTITURE.** Where a senator learns that an economic or investment opportunity previously offered with the intent of influencing the senator's conduct in the performance of official duties, the senator shall take steps to divest that senator of that investment or economic opportunity, and shall report the situation to the senate ethics committee.

**3. CHARGES FOR SERVICES.** A senator shall not charge to or accept from a person, corporation, or association known to have a legislative interest a price, fee, compensation, or other consideration for the lease of any property or the furnishing of services which is in excess of that which the senator charges to another.

**4. USE OF CONFIDENTIAL INFORMATION.** A senator in order to further the senator's own interests, or those of any other person, shall not disclose or use confidential information acquired in the performance of official duties.

**5. HONORARIA.** A senator shall not accept an honorarium from a restricted donor for a speech, publication, or other similar activity, except as otherwise provided in section 68B.23.

**6. EMPLOYMENT.** A senator shall not accept employment, either directly or indirectly, from a political party or committee. A senator may accept employment from a political party, but shall disclose the terms of the employment in writing to the secretary of the senate within ten days after the beginning of each legislative session. If a senator accepts employment from a political party during a legislative session, the senator shall disclose the relationship within ten days after acceptance of the employment.

For the purpose of this rule, a political action committee means a committee, but not a caucus, which accepts contributions, makes expenditures, or incurs indebtedness in the aggregate of more than one hundred fifty dollars in any one calendar year to expressly advocate the nomination, election, or defeat of a candidate for public office or to expressly advocate the passage or defeat of a ballot issue. It does not include an action, or an association, lodge, society, cooperative, union, fraternity, sorority, educational organization, labor organization, religious organization, or professional organization which is not a political action committee.

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the aggregate of more than seven hundred fifty dollars in any one calendar year to express nomination, election, or defeat of a candidate for public office or ballot issue or influencing l

7. ECONOMIC INTERESTS OF LOBBYIST. With the exception of exercising unfettered discretion, refusing to support proposed legislation, a senator shall not take action intended to affect the lobbyist or citizen supporting or opposing proposed legislation.

8. APPEARANCE BEFORE GOVERNMENTAL AGENCY. A senator may appear before a board in any representation case, except that the senator shall not act as a lobbyist. When before a governmental agency or board, the senator shall carefully avoid all conduct which members of the general public to conclude that the senator is using the senator's official position to promote the senator's professional success or personal financial interest.

9. CONFLICTS OF INTERESTS. In order to permit the general assembly to function effectively, senators sometimes be required to vote on bills and participate in committee work which will affect their personal and other monetary interests. In making a decision relative to the senator's activity on given bills, which are subject to the code, the following factors shall be considered:

- a. Whether a substantial threat to the senator's independence of judgment has been created by the situation.
- b. The effect of the senator's participation on public confidence in the integrity of the legislature.
- c. The need for the senator's particular contribution, such as special knowledge of the effective functioning of the legislature.

A senator with a conflict of interest may participate in floor debate if prior to debate the senator discloses the conflict of interest.

10. GIFTS. Except as otherwise provided in section 68B.22, a senator, or that person's immediate family, shall not, directly or indirectly, accept or receive any gift or series of gifts from a restricted donor.

11. DISCLOSURE REQUIRED. Each senator shall file with the secretary of the senate with the code of ethics by the senate, and within ten days after the convening of the general assembly, a statement under section 68B.35 on forms provided by the secretary of the senate containing the following information:

The nature of each business in which the senator is engaged and the nature of the business in which the senator has a financial interest. A senator shall not be required to file a report on a financial interest if the annual income derived from the investment in stocks, bonds, bills, notes, or other securities offered for sale through recognized financial brokers is less than one thousand dollars.

Disclosures required under this rule shall be as of the date filed unless provided to the contrary. The rule shall be amended to include interests and changes encompassed by this rule that occur while the general assembly is in session. All filings under this rule shall be open to public inspection in the office of the secretary of the senate at reasonable times.

The secretary of the senate shall inform the ethics committee of the statements which are filed. If the ethics committee determines that a senator has failed to file a complete statement, the chairperson of the ethics committee shall request in writing that a senator who has failed to file a complete statement appear before the committee within five days, and, upon the failure of the senator to appear, the ethics committee shall require the senator to appear before the committee.

12. STATUTORY VIOLATIONS. Members of the general assembly are urged to familiarize themselves with chapters 68B, 721, and 722.

13. CHARGE ACCOUNTS. Senators shall not charge any amount or item to any charge account maintained by a lobbyist or any client the lobbyist represents.

14. TRAVEL EXPENSES. A senator shall not charge to the state of Iowa amounts for travel expenses.

the senator actually has incurred those mileage and expense costs. Senators shall not file a mileage reimbursement required by section 2.10, subsection 1, unless the travel was actual and commensurate expense to the senator.

15. COMPLAINTS. Complaints or charges against any senator or any lobbyist shall be in writing and filed with the secretary of the senate or the chairperson of the ethics committee. If filed with the senate, the secretary shall immediately advise the chairperson of the ethics committee of the complaint.

Complaint forms shall be available from the secretary of the senate, or the chairperson of the senate. A complaint shall not be rejected for failure to use an approved form if the complaint substantially meets senate requirements.

A complainant may submit exhibits and affidavits attached to the complaint.

#### 16. FILING OF COMPLAINTS.

- a. Persons entitled. Complaints may be filed by any person believing that a senator or lobbyist has violated the senate ethics code, the senate rules governing lobbyists, or chapter 68B of the Iowa criminal law may be considered to be a violation of this code of ethics if the violation is a misdemeanor or greater, or a repetitive and flagrant violation of the law.
- b. Committee complaint. The ethics committee may, upon its own motion, initiate a corrective disciplinary action.
- c. Timeliness of filing. A complaint will be considered to be timely filed if it is filed within 30 days of the occurrence of the alleged violation of the ethics code.

17. PERMANENT RECORD. The secretary of the senate shall maintain a permanent record of evidence received by the committee, and any transcripts or other recordings made of committee proceedings including a separate card file containing the date filed, name and address of the complainant, the respondent, a brief statement of the charges made, and ultimate disposition of the complaint. The secretary shall keep each such complaint confidential until public disclosure is made by the ethics committee.

#### 18. PREHEARING PROCEDURE.

- a. Defective complaint. Upon receipt of a complaint, the chairperson and ranking member of the ethics committee shall determine whether the complaint substantially complies with the requirements of ethics and section 68B.31, subsection 6. If the complaint does not substantially comply with the requirements for formal sufficiency under the code of ethics, the complaint may be returned to the complainant with a statement that the complaint is not in compliance with the code of ethics. If the complainant fails to amend the complaint to comply with the code within a reasonable time, the chairperson and ranking member may dismiss the complaint with prejudice for failure to prosecute.
- b. Service of complaint on respondent. Upon receipt of any complaint substantially complying with the requirements of this code of ethics, the chairperson of the ethics committee shall cause the complaint and any supporting information to be delivered promptly to the respondent. The respondent's response to be filed within ten days. The response may do any of the following:
  - (1) Admit or deny the allegation or allegations.
  - (2) Object that the allegation fails to allege a violation of chapter 68B or the code of ethics.
  - (3) Object to the jurisdiction of the committee.
  - (4) Request a more specific statement of the allegation or allegations.
- c. Objection to member. In addition to the items which may be included in a response under "b", the response may also include an objection to the participation of any member of the committee in consideration of the allegation or allegations on the grounds that the member cannot make an unbiased decision.
- d. Extension of time. At the request of the respondent and upon a showing of good cause to the chairperson and ranking member, may extend the time for response, not to exceed 30 days.
- e. Confidentiality. If a complaint is not otherwise made public, the members of the committee shall keep the complaint and all supporting information as confidential until the written response is received from the respondent.
- f. Communications with ethics committee. After a complaint has been filed or an investigation initiated, a party to the complaint or investigation shall not communicate, or cause another person to communicate, with the ethics committee.

as to the merits of the complaint or investigation with a member of the committee, e: circumstances:

- (1) During the course of any meetings or other official proceedings of the comm complaint or investigation.
  - (2) In writing, if a copy of the writing is delivered to the adverse party or the desi for the adverse party.
  - (3) Orally, if adequate prior notice of the communication is given to the adverse representative for the adverse party.
  - (4) As otherwise authorized by statute, the senate code of ethics, the senate rul or vote of the committee.
- g. Scheduling hearing. Upon receipt of the response, the committee shall schedule a p the complaint and available information, and shall:
- (1) Notify the complainant that no further action will be taken, unless further sub produced, or
  - (2) Dismiss the complaint for failure to meet the statutory and code of ethics req complaints, or
  - (3) Request that the chief justice of the supreme court appoint an independent s conduct an investigation of the complaint and supporting information, to make a det cause, and to report the findings to the committee, which shall be received within a i
- h. Public hearing. If independent special counsel is appointed, upon receipt of the repc special counsel's findings, the committee shall schedule a public meeting to review i either of the following:
- (1) Cause the complaint to be scheduled for a public hearing.
  - (2) Dismiss the complaint based upon a determination by independent special c committee that insufficient evidence exists to support a finding of probable cause.

#### 19. HEARING PROCEDURE.

- a. Notice of hearing. If the committee causes a complaint to be scheduled for a public i hearing date and time shall be given to the complainant and respondent in writing, a right to appear in person, be represented by legal counsel, present statements and i and cross?examine witnesses. The committee shall not be bound by formal rules of receive relevant evidence, subject to limitations on repetitiveness. Any evidence tak
- b. Subpoena power. The committee may require, by subpoena or otherwise, the attent witnesses and the production of such books, records, correspondence, memoranda and any other things it deems necessary to the conduct of the inquiry.
- c. Ex post facto. An investigation shall not be undertaken by the committee of a violati standard of conduct that is not in effect at the time of violation.
- d. Disqualification of member. Members of the committee may disqualify themselves fr investigation of the conduct of another person upon submission of a written stateme cannot render an impartial and unbiased decision in a case. A member may also be unanimous vote of the remaining eligible members of the committee.  
A member of the committee is ineligible to participate in committee meetings, as a n committee, in any proceeding relating to the member's own official conduct.  
If a member of the committee is disqualified or ineligible to act, the majority or minor the member shall appoint a replacement member to serve as a member of the comr of disqualification or ineligibility.
- e. Hearing. At the hearing, the chairperson shall open the hearing by stating the charg hearing, and its scope. The burden of proof rests upon the complainant to establish clear and convincing evidence. However, questioning of witnesses shall be conduct the committee, by independent special counsel, or by a senator. The chairperson sh questioning by legal counsel representing the complainant or respondent.  
The chairperson or other member of the committee presiding at a hearing shall rule questions or any question of admissibility of evidence presented to the committee. F by a majority vote of the committee members present.  
The committee may continue the hearing to a future date if necessary for appropriat
- f. Committee action. Upon receipt of all relevant evidence and arguments, the commit same and recommend to the senate:
  - (1) That the complaint be dismissed, or
  - (2) That the senator or lobbyist be censured or reprimanded, and recommend th censure or reprimand, or
  - (3) Any other appropriate sanction, including suspension or expulsion from men

- or suspension of lobbying privileges.
- g. Disposition resolution. By appropriate resolution, the senate may amend, adopt, or refer to the ethics committee, including the committee's recommendations regarding disciplinary

20. COMMITTEE AUTHORIZED TO MEET. The senate ethics committee is authorized to refer to the chairperson to conduct hearings and other business that properly may come before it. If a report seeking senate action against a senator or lobbyist after the second regular session has adjourned sine die, the report shall be submitted to and considered by the subsequent session. However, the report may be submitted to and considered during any special session which convenes during the second regular session of a general assembly has adjourned sine die, but before the convening of the next assembly.

#### 20A. ADVISORY OPINIONS.

- a. Requests for formal opinions. A request for a formal advisory opinion may be filed by any person subject to the authority of the ethics committee. The ethics committee may also issue an advisory opinion on its own motion, without having previously received a formal request for an advisory opinion that is within the jurisdiction of the committee. Requests shall be filed with either the chairperson or the chairperson of the ethics committee.
- b. Form and contents of requests. A request for a formal advisory opinion shall be in writing and shall relate to any subject matter that is related to the application of the senate code of ethics, the senate code of lobbyists, or chapter 68B of the Code to any person who is subject to the authority of the ethics committee. Requests shall contain one or more specific questions and shall relate either to future conduct or to conduct in the hypothetical. A request for an advisory opinion shall not specifically name any person, but shall identify the individual or individuals to whom the request relates. However, any request may contain information which identifies the kind of individual or individuals to whom the request relates. Examples of this latter kind of identifying information include, but are not limited to, references to conduct of a category of individuals, such as but not limited to conduct of legislative staff, or lobbyists.
- c. Confidentiality of formal requests and opinions. Requests for formal opinions are not confidential. Deliberations of the committee regarding a request for a formal opinion shall be public. Responses to requests for formal opinions are not confidential, shall be in writing, and shall be filed in the office of the secretary of the senate. Persons requesting formal opinions shall receive a copy of the written formal opinion that is issued in response to the request.

#### 20B. CALCULATION OF TIME - DAYS.

For purposes of these rules, unless the context otherwise requires, the word "day" or "days" means a calendar day except that if the day is the last day of a specific time period and falls upon a Saturday, Sunday, or holiday, the time prescribed shall be extended so as to include the whole of the next day in which the senate and the general assembly are open for official business.

#### 21. COMPLAINT FILING FORM. The following form shall be used to file a complaint under

##### THE SENATE

##### Ethics Complaint Form

Re: \_\_\_\_\_ (Senator/Lobbyist),  
of \_\_\_\_\_, Iowa.

I, \_\_\_\_\_ (Complainant), residing  
at \_\_\_\_\_, in the City of \_\_\_\_\_,  
State of \_\_\_\_\_, hereby complain that  
\_\_\_\_\_ (Senator/Lobbyist), whose  
address is \_\_\_\_\_

has violated the Senate Code of Ethics or Senate Rules Governing Lobbyists.  
(Explain the basis for the complaint here. Use additional pages, if necessary.)  
Under penalty of perjury, I certify that the above complaint is true and correct to the best of my knowledge and belief.

\_\_\_\_\_  
Signature of Complainant

SUBSCRIBED AND AFFIRMED to before me this \_\_\_\_\_



day of \_\_\_\_\_, \_\_\_\_\_.

Notary Public in and for the  
State of \_\_\_\_\_

**22. COMPLAINT NOTICE FORM.** The following form shall be used for notice of a complaint

STATE OF IOWA

THE SENATE

COMMITTEE ON ETHICS )

IOWA STATE SENATE )

)

On The Complaint Of ) NOTICE OF COMPLAINT

)

)

\_\_\_\_\_ )

And Involving )

)

)

\_\_\_\_\_ )

TO \_\_\_\_\_,

Senator or Lobbyist named above:

You are hereby notified that there is now on file with the Secretary of the State Capitol, Des Moines, Iowa, a complaint which alleges that you are in violation of the Senate's Code of Ethics or Senate Rules Governing Lobbyists. A copy of the complaint and the Senate rules for processing the same are hereto and made a part of this notice.

You are further notified and requested to file your written answer within ten days of the date upon which the notice was caused to be filed. Your answer is to be filed with the Secretary of the Senate, State Capitol, Des Moines, Iowa.

Dated this \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
Chair, Senate Ethics Committee,  
or Secretary of the Senate

**23. HEARING NOTICE FORM.** The following form shall be used for notice of a hearing

STATE OF IOWA

THE SENATE

COMMITTEE ON ETHICS )

IOWA STATE SENATE )

)

On The Complaint Of ) NOTICE OF HEARING

)

)

\_\_\_\_\_ )

And Involving )

)

)

\_\_\_\_\_ )

TO \_\_\_\_\_,

Senator or Lobbyist named above:



You are hereby notified that there is now on file with the Secretary of the State Capitol, Des Moines, Iowa, a complaint which alleges that you have committed a violation of the Senate's Code of Ethics or Senate Rules Governing the Senate. A copy of the complaint and the Senate rules for processing the same are hereto and made a part of this notice.

You are further notified that, after preliminary review, the committee has scheduled a public hearing to be held on (date) \_\_\_\_\_, \_\_\_\_\_ (hour) \_\_\_\_\_ (a.m.) (p.m.), in Room \_\_\_\_\_, State Capitol, Des Moines, Iowa.

At the hearing, you will have the right to appear in person, be represented by counsel at your own expense, present statements and evidence, and examine witnesses. The committee shall not be bound by formal rules of procedure. The committee shall receive relevant evidence, subject to limitations on repetitive evidence taken shall be under oath.

The committee may continue the hearing to a future date if necessary for any reasons or purposes.

You are further notified that the committee will receive such evidence and take such action as warranted by the evidence.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Chair, Senate Ethics Committee,  
or Secretary of the Senate

**24. PERSONAL FINANCIAL DISCLOSURE FORM.** The following form shall be used for disclosure of interests under these rules and section 68B.35:

STATEMENT OF ECONOMIC INTERESTS

Name: \_\_\_\_\_  
(Last) (First) (Middle Initial)

Address: \_\_\_\_\_  
(Street Address, Apt.# - P.O. Box)

\_\_\_\_\_  
(City) (State) (Zip)

Phone: (Home) \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ (Business) \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
\*\*\*\*\*

a. Please list each business, occupation, or profession in which you have been engaged during the year. In listing the business, occupation, or profession, it is not necessary to list the employer or the name of the business to be listed, although all business occupations, or professions must be listed, regardless of the amount of time spent participating in the activity. (Examples of businesses, occupations, or professions that may be listed: teacher, legislator, real estate agent, insurance adjuster, salesperson....)

(1) \_\_\_\_\_  
(2) \_\_\_\_\_  
(3) \_\_\_\_\_  
(4) \_\_\_\_\_  
(5) \_\_\_\_\_

b. Please list the nature of each of the businesses, occupations, or professions which you listed in paragraph "a", above, unless the nature of the business, occupation, or profession is already apparent from the information above. The descriptions in this paragraph should correspond by number to the numbers for each of the businesses, occupations, or professions listed in paragraph "a".

paragraph "a". (Examples: If you indicated, for example, that you were a person in subparagraph (1) of paragraph "a", you should list in subparagraph (1) of this paragraph the types of goods or services sold in this item. If you indicated that you were a teacher in subparagraph (2) of paragraph "a", you should indicate in subparagraph (2) of this paragraph the type of school or institution in which you provide instruction or whether the instruction was provided on a private basis. If you indicated that you were a lawyer in subparagraph (3) of paragraph "a", you should indicate your areas of practice in subparagraph (3) of this paragraph. If you indicated in subparagraph (4) of paragraph "a" that you were a consultant, in subparagraph (4) of this paragraph you should indicate the kind of services provided and types of clients.)

- (1) \_\_\_\_\_
- (2) \_\_\_\_\_
- (3) \_\_\_\_\_
- (4) \_\_\_\_\_
- (5) \_\_\_\_\_

c. Please list each source, by general description, from which you receive more than one thousand dollars in gross annual income in any of the categories listed below. For purposes of this item, a source produces gross annual income if the revenue produced by the source is subject to federal income taxes. In completing this item, it is not necessary to list the name of the company, business, financial institution, corporation, or other entity which constitutes the source of the income and the value of the holding should not be listed.

(1) Securities (Here for example, you need not state that you own X shares of any specific company by brand or corporate name, or that the stock is of a certain value, but may instead state that you possess stock and indicate the nature of the company's business.):

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(2) Instruments of Financial Institutions (You need not indicate, in which institutions you hold certificates of deposit that produce income over the one thousand dollar threshold, but simply listing the name of the institution will suffice, e.g., bank, credit union, or savings association.):

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(3) Trusts (The name of the particular trust need not be listed. However, if the income is received from a charitable trust/foundation, such as a Charitable Trust, in the form of a grant, the fact that the trust is a charitable trust should be noted here.):

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(4) Real Estate (When listing real estate, it is not necessary to list location of the property, but the general nature of the real estate should be indicated, e.g. residential leasehold interest or farm lease interest.):

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(5) Retirement Systems (When listing retirement benefits, it is not necessary to list the name of the particular pension system or company, but the type of benefit should be listed, e.g., health benefits, life insurance, private pension, or government pension.):

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(6) Other Income Categories Specified in State or Federal Income Tax (List description of other sources of income producing over one thousand dollars in annual income not previously reported above, but which must be reported for income tax purposes.):

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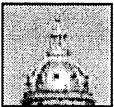
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\_\_\_\_\_  
(Signature of filer)

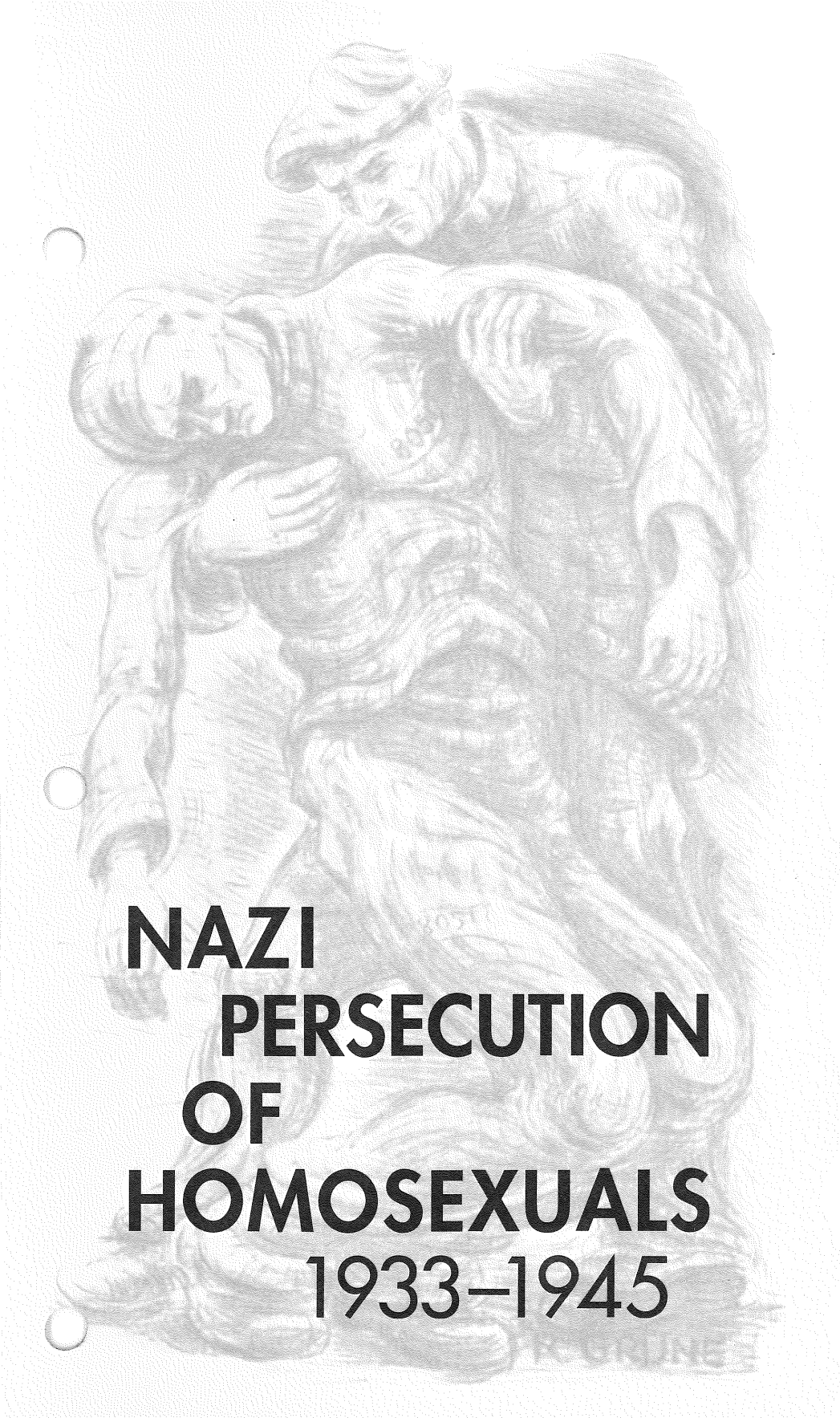
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(Please remember that the webmaster does not vote on bills. Direct all comments concerning legislation to State Legislators.)



# NAZI PERSECUTION OF HOMOSEXUALS 1933–1945

*Solidarity*, by Richard Grune (1903–1983), lithograph, 1947. *Schwules Museum [Gay Museum]*, Berlin.

Grune was incarcerated for homosexuality by the Nazi state from 1934 to 1945.

UNITED STATES HOLOCAUST MEMORIAL MUSEUM

# NAZI IDEOLOGY OF PERSECUTION

The Nazi state, in Adolf Hitler's words, intended "to promote the victory of the better and the stronger and demand the subordination of the inferior and weaker." Drawing on the "science" of eugenics—the study of improving heredity through selective breeding—Nazi authorities claimed a legitimate right to take action against those they believed to debilitate the "Aryan" German race.

Nazi ideology highlighted the dominant role of men in German society and emphasized the male influence on all public life. Concerned that "degeneracy" carried in male "Aryan" blood would weaken the "masculine discipline" of the German nation, the state focused on male homosexuality. It was accused as being a factor in the declining birthrate that threatened to leave Germany unable to sustain itself. It was also feared as an "infection" that could become an "epidemic," especially within the all-male Nazi Party and armed forces and among Germany's male youth. Couched in eugenics, the regime's attack on male homosexuality sought to capitalize on shared prejudices to foster public acceptance of state-sponsored intolerance and brutality.



A Reich Labor Service poster from the late 1930s, which reads "We build body and soul" and typifies the Nazi propaganda vision of the strength, beauty, health, vigor, and brotherhood of the "new man." Bundesarchiv Koblenz

Lesbians were not systematically persecuted under Nazi rule. The limited and subordinate public role of women in general, it was argued, diminished a lesbian's "corrupting influence."

More importantly, the state presumed that women homosexuals were still capable of bearing children, the primary value of women in the Nazis' racist eugenics.

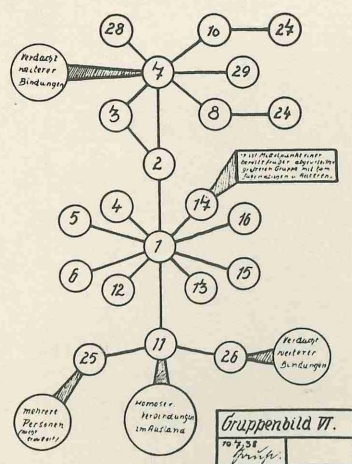


Diagram of the spreading "contagion" of homosexuality from individual number 1 to 28 others. The Nazis believed that the agent of "homosexual infection" was the "seduction" by one man of another. From a 1940 dissertation on youth groups by Karl W. Gauhl, *Statistische Untersuchungen über Gruppenbildung bei Jugendlichen*...



## THE NEW ORDER 1933–1939

The Nazis took power in January 1933 on a platform of law and order, traditional values, and an ideology of racial purity that included virulent antisemitism and the persecution of unwanted social groups. Among its first steps to create a "New Order," the regime shut down homosexual gathering places, organizations, and publications in a broad attack on "public indecency."

As the regime consolidated power and centralized state authority, the instruments of persecution emerged. Press propaganda following the mid-1934 purge of the Nazi Storm Troopers (SA) and murder of its homosexual leader Ernst Röhm linked homosexuality to subversion, even treason. In 1935, Nazi authorities rewrote criminal law §175, and subsequent court interpretation radically expanded the range of punishable "indecentcies between men" to include virtually any interaction deemed to have sexual content. Enforcement of §175 fell to the Criminal Police and the Gestapo, unified by 1936 under the SS and its leader, Reichsführer-SS Heinrich Himmler.

The nation's police forces gained extraordinary authority to employ surveillance on suspect individuals and to seize and detain "enemies of the state." During the 30 months from early 1937 to mid-1939, German police arrested almost 78,000 men under §175, one-third of whom were convicted and sentenced to prison. Hundreds more were interned in concentration camps without legal recourse. All were subjected to brutal mistreatment at the hands of police, interrogators, and guards.





The Nazi crackdown on homosexuality began with the closing of same-sex bars and clubs. On May 6, 1933, Nazi student groups and sympathizers ransacked Magnus Hirschfeld's Institute for Sexual Science, Berlin's most visible symbol of the campaign for homosexual rights and legal reform. Four days later, much of the institute's unique library was destroyed as part of a public book burning to destroy the "un-German spirit."

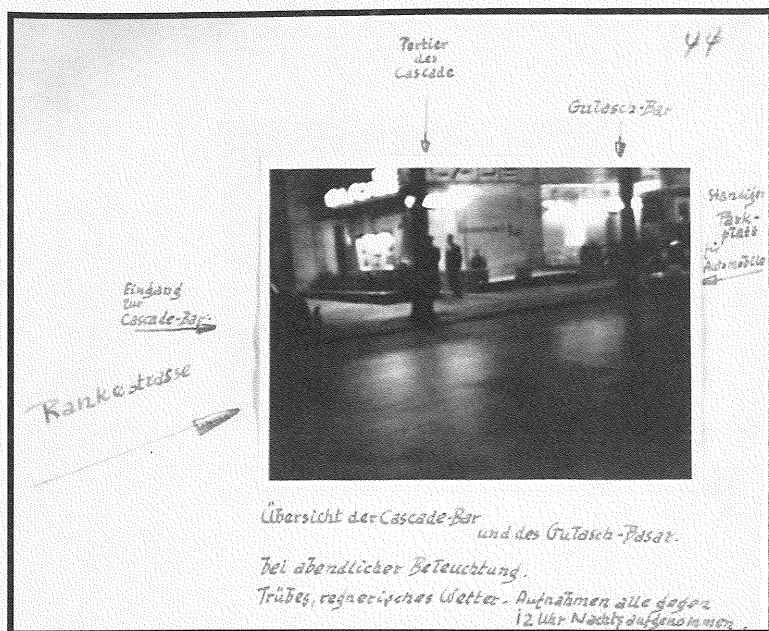
*Keystone, courtesy of Schwules Museum [Gay Museum], Berlin*

Kennzeichen für Schutzhäftlinge in den Konz. Lagern						
Form und Farbe der Kennzeichen						
	Politisch	Berufs- Verbrecher	Emigrant	Bibel- forscher	homo- sexuell	Sozial
Grund- farben	Red triangle	Green triangle	Blue triangle	Black triangle	Pink triangle	Black triangle
Abzeichen für Überfallige	Red triangle	Green triangle	Blue triangle	Black triangle	Pink triangle	Black triangle
Häftlinge der Straf- kompanie	Red triangle	Green triangle	Blue triangle	Black triangle	Pink triangle	Black triangle
Abzeichen für Juden	Red star	Green star	Blue star	Black star	Pink star	Black star
Besondere Abzeichen	Star with 'V'	Star with 'S'	Star with 'E'	Star with 'B'	Star with 'H'	Star with 'S'
	Von Völk- schänder	Völk- schänderin	Flucht- verdächtig	Häftlings- nummer		Beispiel
	Pole	Ikkeche	Wehrmacht- Ausgehöriger	Häftling Ia		

The pink triangle (second column from right) was the badge imposed on the estimated 5,000 to 15,000 male homosexual prisoners who suffered in Nazi concentration camps. Under the practice of "protective custody," the Gestapo seized without warrants and confined in camps suspected homosexual men, political opponents, and others—particularly Jews after 1938—who "offended" the German nation. Homosexual detainees, easily identified by their pink triangles, bore vicious physical abuse from the SS camp guards. Fellow prisoners shunned the homosexuals, leaving them isolated and powerless within the prisoner hierarchy. *Dokumentationsarchiv des Österreichischen Widerstandes, Vienna*







Police observation photograph of the Cascade Bar, Berlin, May 1938, from the files of the Gestapo's Special Section II-1 for matters about homosexuality. Regulations issued in February 1934 ordered police surveillance of men expected "with a high degree of probability" to violate §175. In October 1934, the Gestapo ordered all police departments to submit lists of men in their districts suspected of being homosexually active. Two years later, the Reich Central Office for Combating Homosexuality and Abortion was established as the national police registry for sexual matters that hindered population growth. *Landesarchiv, Berlin*



These police file photos (left and below) represent some of the 100,000 men arrested during the Nazi era on violations of the revised and reinterpreted §175.

Half of those arrested were subsequently convicted of violating the law. As word spread of the massive arrests and the wretched, even brutal conditions in the German prisons, a pervasive atmosphere of fear enveloped Germany's homosexuals. *Nordrhein-Westfälisches Hauptstaatsarchiv, Düsseldorf; Landesarchiv, Berlin; Staatsarchiv Würzburg*







Forced laborers in the quarry at the Mauthausen concentration camp in Austria. The SS-run quarries and brickyards attached to the major concentration camps within the German Reich relied heavily on the manual labor of camp inmates. Homosexual prisoners, usually assigned to the "punishment companies," were forced to work long hours with few breaks, often on reduced rations. The work claimed many lives, not only from exertion but also in "accidents" caused by sadistic SS guards. *Nederlands Instituut voor Oorlogsdocumentatie, Amsterdam*

## PERSECUTION AND THE WAR 1939–1945

Hitler's intention to acquire "living space" in lands adjacent to Germany led to the start of World War II in September 1939 and the call to arms of more than two million men. The German military code did not bar homosexuals, even convicted homosexuals, from serving in the armed forces, and thousands of homosexual men were drafted to serve a regime that persecuted them as civilians. The fear that homosexuality would spread through the all-male military quickly proved to be unfounded. Homosexual conduct, however, was subject to §175, and during the war, some 7,000 soldiers were convicted under the law, sentenced to prison, then usually forced to return to service. As an alternative to prison, convicted soldiers could petition to serve in "cannon-fodder" penalty battalions that commanders mercilessly used in suicide missions.



The war concealed the Nazis' radicalized persecution at home. In summer 1940, Himmler ordered convicted homosexual men "who have seduced more than one partner" sent to concentration camps after completing their prison sentence. A September 1942 agreement between Himmler and the Minister of Justice led to the transfer of "habitual criminals," including repeat offenders under §175, from prisons and penitentiaries to the camps. There, in a campaign of "extermination through work," homosexuals and other so-called security suspects were assigned to grueling work in dangerous conditions, often with fatal consequences.



Medical "solutions" to homosexuality were pursued throughout the Nazi era. A secret decree in November 1942 authorized the castration of homosexual prisoners in concentration camps to suppress their "degenerate" sex drive. Such procedures took place in operating rooms like this one (*above*) at the Sachsenhausen concentration camp. In a late-1943 experiment to "correct" homosexuality, SS Maj. Dr. Carl Vaernet implanted hormone capsules in 12 Buchenwald concentration camp prisoners, at least ten of whom were homosexual. Two men died from complications of the surgery; the fates of the others are unknown. *Gedenkstätte und Museum Sachsenhausen, Oranienburg*

Photographs (*below*) of homosexual prisoners at the Auschwitz concentration camp, 1941. These men likely served as forced laborers in the construction of the three-camp Auschwitz complex. Many of those shown here died within months of their arrival. *National Museum of Auschwitz-Birkenau, Oświęcim*



## THE AFTERMATH

As the Allies swept through Europe to victory over the Nazi regime in early 1945, hundreds of thousands of concentration camp prisoners were liberated. The Allied Military Government of Germany that replaced the defeated Nazi regime repealed countless laws and decrees that had underpinned the eugenic engineering for a purified "master Aryan race." Left unchanged, however, was the 1935 revision of §175. Under the Allied occupation, some homosexuals were forced to serve out their terms of imprisonment regardless of time served in the concentration camps. The Nazi version of §175 remained on the books of the Federal Republic of Germany (West Germany) until the decriminalization of homosexual relations between adult men in 1969.

The continued legal and social prohibitions against homosexuality in Germany hindered official recognition that homosexuals were victims of Nazi persecution. In June 1956, West Germany declared that internment in a concentration camp for homosexuality disqualified an individual from receiving compensation. Not until 1985, the 40th anniversary of the end of World War II in Europe, did homosexuals murdered by the Nazis receive the first public commemoration. Four years after Germany's reunification in 1990, §175 was abolished, and in May 2002, the German parliament passed legislation pardoning all homosexuals convicted under §175 during the Nazi era.



The Frankfurt "Angel" is one of several memorials to homosexual victims of Nazi persecution that have appeared in Germany since the mid-1980s. *Photo by Ewald Kentgens, Berlin*



## RECOMMENDED READING

### Persecution of Homosexuals

Grau, Günter, ed. *Hidden Holocaust? Gay and Lesbian Persecution in Germany, 1933–45*. Translated by Patrick Camiller. Chicago: Fitzroy Dearborn, 1995.

Heger, Heinz. *The Men with the Pink Triangle: The True, Life-and-Death Story of Homosexuals in the Nazi Death Camps*. Translated by David Fernbach. Introduction by Klaus Müller. Boston: Alyson Publications, 1994.

Plant, Richard. *The Pink Triangle: The Nazi War against Homosexuals*. New York: Henry Holt, 1986.

Schoppmann, Claudia. *Days of Masquerade: Life Stories of Lesbians during the Third Reich*. New York: Columbia University Press, 1996.

### Other Victims of Nazi Persecution

Berenbaum, Michael, ed. *A Mosaic of Victims: Non-Jews Persecuted and Murdered by the Nazis*. New York: New York University Press, 1990.

Burleigh, Michael, and Wolfgang Wippermann. *The Racial State: Germany, 1933–1945*. New York: Cambridge University Press, 1991.

Gellately, Robert, and Nathan Stoltzfus. *Social Outsiders in Nazi Germany*. Princeton, N.J.: Princeton University Press, 2001.

### General Holocaust History

Berenbaum, Michael, and Abraham J. Peck, eds. *The Holocaust and History: The Known, the Unknown, the Disputed, and the Reexamined*. Bloomington: Indiana University Press, 1998.

Friedländer, Saul. *Nazi Germany and the Jews*. New York: Harper Collins, 1997.

Hilberg, Raul. *The Destruction of the European Jews*. New York: Holmes and Meier, 1985.

For further information on the Nazi persecution of homosexuals, visit the Museum's Web site at [www.ushmm.org](http://www.ushmm.org) and enter Site Search keyword "homosexuals."

Online brochures about non-Jewish victims of the Nazis can be found on the Museum's Web site by entering Site Search keyword "non-Jewish victims."

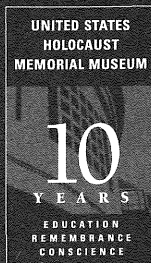


Between 1933 and 1945, Germany's National Socialist (Nazi) government under Adolf Hitler sought domination over Europe and attempted to rid German-controlled territory of people who did not fit its vision of a hereditarily pure, "master Aryan race." Foremost among the Nazis' objectives was the annihilation of the Jews, six million of whom were systematically killed across Europe in what has come to be called the Holocaust. Many other groups were targets for persecution and even murder under the Nazi ideology, including political dissidents, Germans with mental and physical disabilities, Roma (Gypsies), Jehovah's Witnesses, Poles, and Soviet prisoners of war. Millions perished in this state-sponsored tyranny.

The Nazi regime also sought to eradicate homosexuality. Accused of carrying a "contagious degeneracy" that threatened the nation, Germany's homosexual men were subjected to persecution and violence. In an attempt to terrorize all German homosexuals into social conformity, the Nazis arrested, convicted, and incarcerated tens of thousands of men in prisons and concentration camps.

The United States Holocaust Memorial Museum is dedicated to preserving the memory of all who suffered during this unprecedented tragedy. The exhibition *Nazi Persecution of Homosexuals 1933-1945*, one in a series about the lesser-known victims of the Nazi era, examines the campaign that left thousands dead and shattered the lives of many more.

# NAZI PERSECUTION OF HOMOSEXUALS 1933-1945

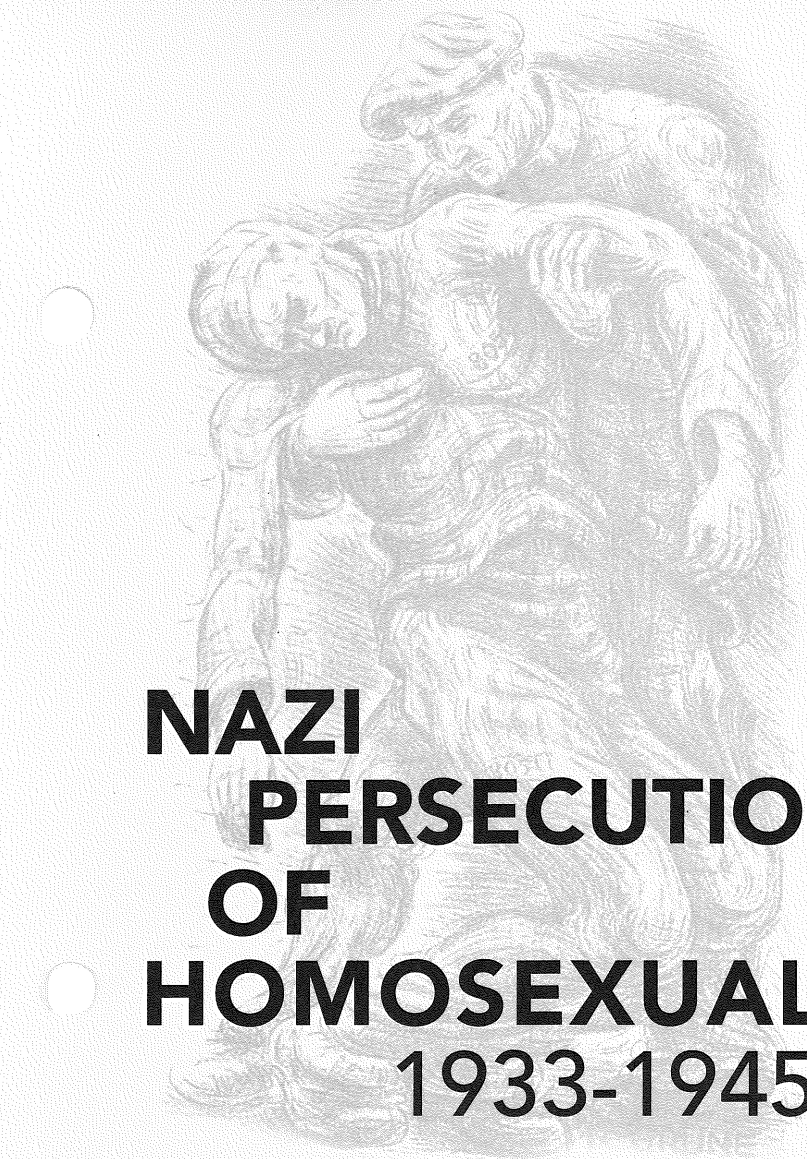


An exhibition organized and circulated by the  
**United States Holocaust Memorial Museum**

100 Raoul Wallenberg Place, SW  
Washington, DC 20024-2126

[www.ushmm.org](http://www.ushmm.org)

THIS EXHIBITION HAS BEEN MADE POSSIBLE IN PART BY SUPPORT FROM  
THE DUANE RATH ENDOWMENT FUND AND THE FOUNDATION FOR CIVIL RIGHTS.



# NAZI PERSECUTION OF HOMOSEXUALS 1933-1945

*Solidarity*, by Richard Grune (1903—1983), lithograph, 1947, Schwules Museum [Gay Museum], Berlin  
Grune was incarcerated for homosexuality by the Nazi state from 1934 to 1945.

A special exhibition organized and circulated by the  
**UNITED STATES HOLOCAUST MEMORIAL MUSEUM**

And presented in Minnesota by



# NAZI PERSECUTION OF HOMOSEXUALS 1933-1945

*"I was a child during World War II, and I've read a lot about World War II. It's just recently that anyone's come out with this idea that homosexuals were persecuted to this extent. There's been a lot of rewriting of history."*

— Rep Arlon Lindner,  
March 7, 2003

A special exhibition organized and circulated by the  
United States Holocaust Memorial Museum

And presented in Minnesota by  
OutFront Minnesota Community Services,  
Steven J Schochet Center for GLBT Studies,  
Jewish Community Action, and the Minneapolis YWCA.

August 4 through September 26, 2003  
The Atrium of the Downtown YWCA  
1130 Nicollet Mall

## OPENING NIGHT CEREMONY AND RECEPTION

Sponsored by OutFront Minnesota  
5 to 8 pm, Thursday, August 7

Special Guest: Exhibit Curator Edward Phillips  
Exhibit Dedicated to Hinda Kibort, Holocaust Survivor  
Honored Invitees: The Minnesota Congressional Delegation,  
The Governor and Cabinet, Members of the Minnesota Legislature,  
Members of the Hennepin and Ramsey County Commissions,  
Members of the Minneapolis, Saint Paul and Duluth City Councils  
\$25/person, proceeds to underwrite the exhibit

More information and advance registration at [www.outfront.org](http://www.outfront.org).



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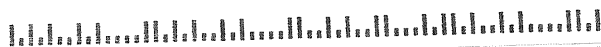
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2003

Prisoners at forced labor in the Mauthausen concentration camp. Beginning in 1943, homosexuals were among those in concentration camps who were killed in an SS-sponsored "extermination through work" program. — Credit: Nederlands Instituut voor Oorlogsdocumentatie/USHMM



Legislator who questioned gay persecution  
says he might visit the Holocaust display.

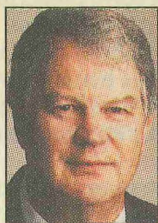
## Lindner flap brings Nazi exhibit to town

By Brian Bakst  
Associated Press

Several months after state Rep. Arlon Lindner ignited a political firestorm by questioning gay persecution in the Holocaust, a traveling exhibit devoted to that topic will stop in Minnesota. And Lindner said Monday that he might tour it.

In announcing the visit of the U.S. Holocaust Memorial Museum's "Nazi Persecution of Homosexuals 1933-1945" display, a local organizer attributed the stop directly to the Lindner controversy.

"When an educational moment offers itself, you jump on it," said



Rep. Arlon Lindner of Corcoran was accused of ethics violations.

Linnea Stenson, director of the University of Minnesota's Schochet Center for Gay, Lesbian, Bisexual and Transgender Studies.

In March, Lindner, R-Corcoran, was accused of ethics violations by DFL legislators for saying that reports of Nazi persecution of gays and lesbians is part of a "rewriting of history."

Lindner's critics grew more outraged when he said he didn't want "to sit around here and wait until America becomes another African continent," a reference he said applied to the spread of HIV and AIDS.

**EXHIBIT continues on B8**

### INSIDE

#### Arson charges filed

A former employee is accused of setting the fire that destroyed part of a Gaylord, Minn., door manufacturing plant.

**Turn to B3.**

### COLUMNISTS

#### Doug Grow

In the U.S. Senate, what's good for the goose is good for the gander. **Turn to B2.**

#### C.J.

A nice kid named Kurkova not Kournikova. **Turn to B5.**

### HEADS UP

#### EXHIBIT from B1

*'It's always good to refresh  
our memories,' Lindner says*

All of the comments stemmed from discussion of his bill to repeal state human rights protections for people based on their sexual orientation. Part of that bill, which went nowhere, would have removed sexual orientation as a classification in the law's definition of Holocaust survivors and victims.

Lindner wasn't punished because the House Ethics Committee deadlocked. He maintained Monday that he was misunderstood. He said his point then — and now — is that gays weren't persecuted to

the same extent as Jews were.

Of the exhibit, Lindner said he's "going to try to make it to see it."

"It's always good to refresh our memories and so forth. That was a terrible thing that happened," he said. "It doesn't hurt us to be reminded because sometimes we tend to forget."

The display is a collection of photographs, news clippings, magazine illustrations and original German documents detailing Nazi treatment of gays.

More than 100,000 men

were arrested as gay during Adolf Hitler's 12 years in power. About half served prison terms, and 5,000 to 15,000 were placed in concentration camps, the Holocaust Museum calculates. An unknown number died in the camps.

The exhibit opens at the YMCA of Minneapolis on Aug. 4 and runs through Sept. 26. A special ceremony will be held Aug. 7, and many public officials have been invited to attend.

Minnesota wasn't on the original itinerary when the tour began this spring. So far, the display has been only to Los Angeles, but it will also swing through Houston, Chicago, New York and East Lansing, Mich.



8-5-03

MINNEAPOLIS

# Lawmaker promises to visit exhibit about gays, Nazis

BY DAVID HAWLEY  
Pioneer Press

The man who inspired efforts to bring a traveling exhibit on the Nazi persecution of homosexuals to the Twin Cities was not present when it opened Monday in Minneapolis.

But state Rep. Arlon Lindner said he plans to see the U.S. Holocaust Memorial

Museum's "Nazi Persecutions of Homosexuals 1933-1945," which is on display at the Downtown YWCA on Nicollet Mall through Sept. 26.

"I'm looking forward to it," said Lindner, R-Corcoran, who ignited a political firestorm last March with remarks he made during debate on his efforts to

VISITING EXHIBIT, 5B



JOE ODEN, PIONEER PRESS

**Frida Kotovnikov, left,** and Maviya Yamnik converse with Gregg White of OutFront Minnesota on Monday during the Minneapolis opening of the traveling exhibit on Nazi persecution of gays.

## Visiting exhibit

(continued)

repeal state human rights protections for people based on their sexual orientation.

Lindner's legislation went nowhere, but critics accused him of questioning whether the Nazis persecuted gays.

"It's just recently that anyone's come out with this idea that homosexuals were persecuted to this extent — there's been a lot of rewriting of history," Lindner was quoted as saying, though he now says his remarks were misunderstood.

"I said I didn't believe that homosexuals were persecuted to the same extent that Jewish people were," Lindner said when contacted last week. "I was thinking more number-wise."

The local sponsors of the exhibition hope it will educate Lindner and others.

"Aside from Rep. Lindner's statements, a lot of people of good conscience don't know about this history," said Linnea Stenson, program director at the Steven J. Schochet Center for Gay, Lesbian, Bisexual and Transgender Studies at the University of Minnesota. Her organization is co-sponsoring the exhibit with three others, including OutFront Minnesota, Jewish Community Action and the Minneapolis YWCA.

The organizers also have invited elected officials — including the entire Minnesota Legislature and representatives of city and county governments — to attend a ceremony and reception Thursday. But as of Monday, only a small number of officials had promised to attend, said Ann DeGroot, executive director of OutFront Minnesota.

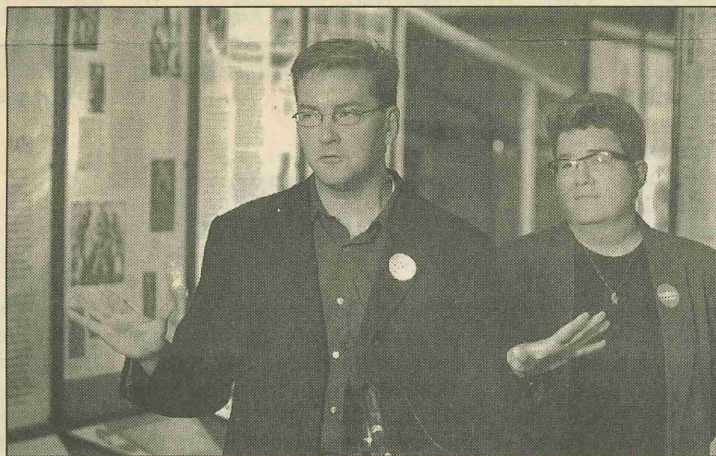
"To be frank, we're somewhat disappointed," DeGroot said.

Small in size, the exhibit consists of 28 panels that display reproductions of hundreds of photographs and documents arranged in a loose chronological order. It describes a purposeful effort by the Nazis that resulted in about 100,000 arrests, 50,000 imprisonments, an untold number of deaths in concentration camps and such things as forced castrations.



PIONEER PRESS PRESS PHOTOS BY JOE ODEN

"Nazi Persecutions of Homosexuals 1933-1945" features 28 panels that display reproductions of hundreds of photographs and documents. Included are photos of homosexual men who were placed in detention in German concentration camps.



**State Sen. Scott Dibble, DFL-Minneapolis,** speaks at the Monday opening in Minneapolis of the U.S. Holocaust Memorial Museum's traveling exhibit on Nazi persecution of gays. Listening is Linnea Stenson, program director at the Steven J. Schochet Center for Gay, Lesbian, Bisexual and Transgender Studies at the University of Minnesota.

The exhibit, which came to the Twin Cities from Los Angeles, also includes poignant personal stories, many sketched in a few sentences. Here, for example, is the story of Friedrich-Paul von Grosheim, a German who was first arrested in 1937 during a mass arrest of 230 suspected homosexuals:

"He was tortured and given

the choice between castration or a concentration camp. He submitted to the operation. Friedrich-Paul survived the war, but it took him 50 years to talk about his experiences. 'I'm living proof that Hitler didn't win ... if I don't tell my story, who will know the truth?'"

Lindner said he accepted an invitation to tour the exhibition

with Stephen Silberfarb, executive director of the Jewish Community Relations Council of Minnesota and the Dakotas. The two plan to see the exhibition together next Tuesday.

"We look upon this as a learning experience for everybody, and we'll see what happens," said Silberfarb, who added that he is pleased that

Lindner is willing to tour the exhibit with him.

"I think this is a step in the right direction," Silberfarb said. "Does this resolve the issues about the legislation he was trying to enact? No. But it's a step."

David Hawley can be reached at [dhawley@pioneerpress.com](mailto:dhawley@pioneerpress.com) or 612-338-6516.

## IF YOU GO

**What:** "Nazi Persecution of Homosexuals 1933-1945," a traveling exhibit by the U.S. Holocaust Memorial Museum in Washington, D.C.

**Where:** Downtown YWCA, 1130 Nicollet Mall, Minneapolis

**When:** 9 a.m. to 9 p.m. Monday through Friday and 10 a.m. to 4 p.m. Saturdays through Sept. 26

**Cost:** Free

**To learn more:** 612-626-8387; visit the U.S. Holocaust Memorial Museum's Web site at [www.ushmm.org](http://www.ushmm.org)



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## Holocaust exhibit doesn't sway gay rights foe Lindner

**Conrad deFiebre**

Star Tribune

Published 08/13/2003

After an hour of studying a museum exhibition about Nazi persecution of gays, Minnesota's best-known foe of gay and lesbian rights emerged Tuesday decrying man's inhumanity to man but still bent on abolishing mention of sexual orientation from the state human rights law.

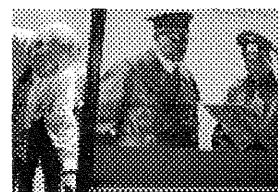
"I'm a Christian. . . . And it's in the Bible that homosexuality is a sin, and it's wrong, and it's a perverted lifestyle," said Rep. Arlon Lindner, R-Corcoran. "I don't try to go against my maker."

Lindner visited a traveling exhibit from the U.S. Holocaust Memorial Museum, on display at the downtown Minneapolis YWCA through Sept. 26. A Jewish leader invited him there after Lindner angered gay, Jewish and black fellow legislators last winter with public remarks minimizing the persecution of gays in the Holocaust and predicting that gay rights would lead to an Africanlike AIDS epidemic in America.

DFLers lodged ethics complaints against him, but he was cleared when a contentious hearing ended in a deadlocked party-line committee vote.

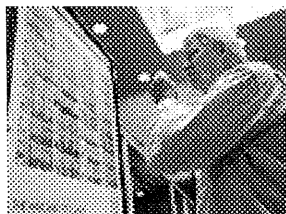
On Tuesday, Lindner said he found support in the Holocaust exhibition for his belief that the Nazis did not systematically target gay men for extinction to the same extent they did the Jews, 6 million of whom died.

According to the exhibit, about 100,000 of an estimated 2 million German gays were arrested under Nazi rule from 1933 to 1945; 50,000 served time in prisons or camps, and 5,000 to 15,000 died as a result.



Lindner tours Holocaust exhibit.

Richard Tsong-Taatarii  
Star Tribune



Lindner decries 'man's inhumanity to man'.

Richard Tsong-Taatarii  
Star Tribune

"It's bad enough, regardless," Lindner said. "It's been happening for many thousands of years, and it's still happening. It's so sad. We haven't learned anything except man's inhumanity to man," he said.

The exhibit documents Nazi fears that homosexual "degeneracy" would weaken the "disciplined masculinity" of Germany. But it also traces more than a century of German law prohibiting male homosexuality from 1871 until repeal in 1994, nearly 50 years after the Nazis' fall.

"That was already in law when the Nazis took over, along with most Western countries," Lindner noted. "I can see why they repealed it. But I've always felt that it's good to have the sodomy laws."

### 23 orientations?

Last year the German Parliament pardoned all those convicted under the old law. Closer to home, the U.S. Supreme Court recently declared a Texas law banning sodomy unconstitutional, calling into question the validity of such laws in other states, including Minnesota.

To Lindner, that's evidence of this country going the wrong way, pushed by pro-gay "propaganda" from television, movies and liberal politicians.

"It's designed to weaken the public, and it's working," he said. "I do see myself standing there publicly and trying to protect the family and the children that are influenced by this."

Lindner's crusade crossed paths with Nazi history because his bill to repeal state civil-rights protections for gays and lesbians also would eliminate reference to "sexual orientation" from a law dealing with insurance benefits for Holocaust victims and survivors.

Lindner, in fact, wants to erase that phrase completely from the law, contending that psychologists have identified 23 sexual orientations and that the state shouldn't reserve special rights for any of them.

Opposed by Republican leaders, Lindner's bill didn't advance in the Legislature this year, and he predicted no greater success in the future. His host Tuesday, Stephen Silberfarb, executive director of the Jewish Community Relations Council of Minnesota and the Dakotas, promised to oppose such legislation vigorously.

"But I consider myself a friend of Representative Lindner," Silberfarb said. "We ought to have a civil debate. I respect him for coming down and doing this. It couldn't have been an easy thing to do."

### **No apologies**

Silberfarb contended that Lindner had moved from outright denial of gay persecution in the Holocaust to acknowledgment of the historical facts, but the legislator said he hadn't changed his mind at all.

"I pretty much stand by what I said," he told reporters afterward. "I don't feel I owe anybody an apology."

Still, he said, he learned something from the exhibition.

"It's an eye-opener," he said. "It tells the story from the homosexual perspective. Any death like that is bad. I think it's wrong to kill anyone . . . unless it's a war or putting to death a murderer."

In addition to touring the exhibit, Lindner said, he has been learning more about the Holocaust era by reading a book called "The Pink Swastika," which contends that many Nazi leaders were gay.

"I wasn't there, and all I know is what I read," Lindner said, noting that the book and the exhibit contradict each other on many points. "The book is pretty well documented, just like this exhibit."

The exhibit tells the story of one gay Nazi, storm trooper leader Ernst Röhm, who was purged by the regime a year after Adolf Hitler took power. According to a government statement after Röhm was killed, "the Führer gave the order to ruthlessly exterminate this canker" because of his "unfortunate predisposition."

***Conrad deFiebre is at [cdefiebre@startribune.com](mailto:cdefiebre@startribune.com).***

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TwinCities.com

Posted on Wed, Aug. 13, 2003

PIONEER PRESS

## Lindner gets 'eye opener'

**State Rep. Arlon Lindner toured an exhibit depicting Nazi persecution of gay men, but he stopped short of apologizing for his controversial comments six months ago.**

**BY BILL SALISBURY**  
Pioneer Press

Six months ago, state Rep. Arlon Lindner sparked a storm of controversy by suggesting that Nazi persecution of homosexuals was a recent idea generated by "a lot of rewriting of history."

But after touring a traveling exhibit on the imprisonment and murder of gay men during World War II and the Holocaust, the Corcoran Republican on Tuesday acknowledged that homosexuals were indeed persecuted under Adolf Hitler's regime.

Still, Lindner said he believes the Bible teaches homosexuality is a sin and a perverted lifestyle, and he pledged to resume his effort to repeal a state law that bans discrimination on the basis of one's sexual orientation.

With more than a dozen reporters and photographers tagging along, Lindner spent about an hour carefully examining each of the 28 panels in the U.S. Holocaust Memorial Museum's exhibit "Nazi Persecutions of Homosexuals 1933-1945," which is on display at the Downtown YWCA in Minneapolis.

The collection of photographs, German documents and newspaper clippings provides evidence that during the Nazi era more than 100,000 gay men were arrested, some 50,000 were imprisoned and 5,000 to 15,000 were sent to concentration camps where untold numbers perished.

Although Lindner pronounced the exhibit "an eye opener," he said he stands by his earlier statements and doesn't "owe anybody an apology."

He contended his comments about "rewriting of history" were misunderstood. "What I said is they (homosexuals) weren't persecuted to the same extent that the Jewish people were, and I believe that the exhibit still pretty much confirms that."

While the Nazis set out to exterminate all Jews in Europe, the exhibit showed that they selectively murdered a relatively small portion of the estimated 2 million gay men in Germany. That was horrible, Lindner said, but the mass slaughter of 6 million Jews was worse.

He also noted the exhibit confirmed that most of the history of Nazi discrimination against homosexuals has come to light in the last 20 years.

Lindner's remarks last winter outraged gays and liberal legislators. House Democratic-Farmer-Laborites moved to censure him, but their motion was rejected on a party-line vote. Still, he ignited a storm of protest that prompted four local gay-rights and religious groups to bring the exhibit to Minnesota.

Despite Lindner's denials, a Jewish leader who accompanied him through the exhibit said the lawmaker

"essentially has reversed himself," and that is "progress."

A few months ago Lindner suggested Nazi persecution of homosexuals never happened, but now he recognizes it did and was horrible, said Stephen Silberfarb, executive director of the Jewish Community Relations Council of Minnesota and the Dakotas.

"He deserves respect and commendation" for viewing the exhibit in front of a gaggle of reporters and answering their tough questions, Silberfarb said.

While he opposes Lindner's views on sexual orientation, he said, "We ought to be able to vigorously disagree on the issues and still conduct ourselves as Americans who respect each other."

Lindner said the exhibit did not change his views on gays and lesbians.

"I'm a Christian, and I believe that God knows us better than we know ourselves," he said. "And it's in the Bible that homosexuality is a sin, that it's wrong and it's a perverted lifestyle. And I don't try to go against my maker."

While he will try again next year to repeal the state's gay-rights law, he acknowledged that "it probably won't go any further than it went" last session, when it died in a House committee after leaders in both parties opposed it.

## IF YOU GO

**What:** "Nazi Persecution of Homosexuals 1933-1945," a traveling exhibit by the U.S. Holocaust Memorial Museum in Washington, D.C.

**Where:** Downtown YWCA, 1130 Nicollet Mall, Minneapolis

**When:** 9 a.m. to 9 p.m. Monday through Friday and 10 a.m. to 4 p.m. Saturdays through Sept. 26.

**Cost:** Free

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# When the law leads a society down the slippery slope of persecution

By Stephen R. Silberfarb

8/22/03

The antidote to ignorance is evidence. When state Rep. Arlon Lindner, R-Corcoran, recently visited the "Nazi Persecution of Homosexuals" exhibit, there was reason to hope he would prove this adage true.

It looked promising; Lindner reversed his previous comments and acknowledged the suffering of homosexuals at the hands of the Nazis. Previously, he had questioned whether Nazis persecuted homosexuals, saying: "There's been a lot of rewriting of history."

As he toured the exhibit, Lindner lamented "man's inhumanity to man" and inhumanity that continues today.

But the magnitude of his realization apparently did not sink in. Minutes later, he promised to reintroduce a measure to allow Minnesotans



Jim Mone/Associated Press

**Rep. Arlon Lindner toured an exhibit about Nazis and homosexuals at the Minneapolis YWCA this month.**

to discriminate against others based on sexual orientation.

Currently, Minnesota's Human Rights Act prohibits discrimination on the basis of sexual orientation (along with

race, religion, ethnicity and physical or mental disability).

The Nazi persecution of homosexuals started with a law, too: Paragraph 175 of the German Criminal Code. Paragraph

175 was adopted in 1871, long before Hitler's reign, but during a time when homosexuals were viewed with suspicion. Before Hitler's ascendancy, the law was relatively sparingly enforced.

After Hitler took power, he amended Paragraph 175 in order to give the appearance of legal legitimacy to his goal of purifying Germany by, among other things, persecuting homosexuals. Hitler played upon the public's existing prejudice against homosexuals, which helped to foster public acceptance of his state-sponsored brutality.

The Gestapo strictly enforced the law, using Paragraph 175 to arrest more than 100,000 homosexuals, half of whom were convicted. Those convicted were placed in labor camps and concentration camps (where the Nazi employed an "extermination

through work" policy).

The lesson of Nazi Germany is as stark as the pink triangle homosexuals were forced to wear in concentration camps: When laws are used to degrade and dehumanize, society sits precariously on a slippery slope. When the instruments of government are used to prey on those perceived as inferior, a society can all too easily slide into state-sponsored discrimination.

Nazi Germany is hardly the lone illustration of the slippery slope. American history is replete with examples of legal excesses that shamefully encouraged stereotypes and prejudices and gave rise to mob violence under the color of law.

It is hard if not impossible to see how America could return to the days of lynchings. It is even less conceivable that America could ever slide into Nazism, as Germany did.

Still, that which is not presently conceivable is not impossible. Peril lurks beneath legislation that diminishes human rights and demonizes human beings.

The lesson of Dred Scott, Brown vs. Board of Education, apartheid and Nazi barbarism is that what starts as a simple law can end as persecution legitimized and justified by the law. And while Lindner's proposed legislation is hardly Germany's dreaded Paragraph 175, history teaches us that danger lies not just in the wording of a law but in the climate it fosters on the slippery slope.

*Stephen R. Silberfarb is executive director of the Jewish Community Relations Council of Minnesota and the Dakotas. He accompanied Rep. Arlon Lindner through the "Nazi Persecution of Homosexuals" exhibit Aug. 12.*



### Bayfield Blues

Imagine my shock this morning when I opened my mailbox to find the July issue of *Minnesota Monthly* with the blaring headline "Escape to Bayfield." Well, dah next thing youse guys knows, somebody's gonna be a hollerin' 'bout our terrible winters and then the whole darn state is just gonna shrivel up an' blow away to Nort Dekodee!

STEVE & JUDY LUECK  
*Clear Lake*

"Escape to Bayfield"? Escape? My dictionary tells me that the word *escape* means a flight from confinement—evasion of something undesirable. I live on the beautiful, scenic North Shore Drive in Minnesota, and if you want to escape you can escape to Duluth Canal Park, to the Split Rock Lighthouse, to Tettegouche State Park, to the Temperance River, to Grand Marais, to Grand Portage. Why do we have to go out of state when we have over 10,000 lakes to escape to and also the BWCA?

For shame—what a great disservice and insult to me and all Minnesotans who love our state and our quality of life. And we certainly would have assumed and expected *Minnesota Monthly* to do the same.

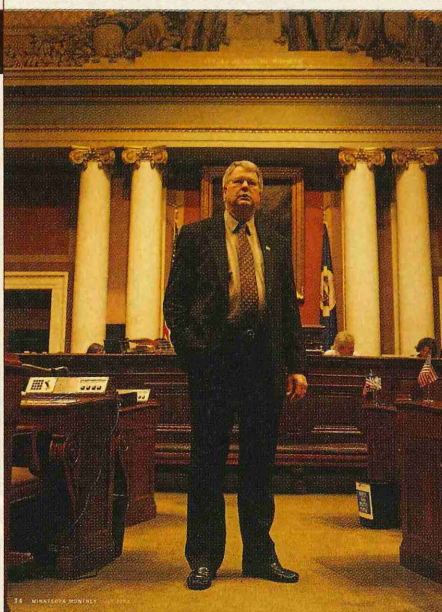
DOROTHY COX  
*Silver Bay*

I agree that Bayfield's a great place to visit, and we've been there several times, but tell me about Minnesota in *Minnesota Monthly*, not Wisconsin!

GUY SCHAFER  
*St. Cloud*

### The Specter of Arlon

As a Minnesota native and St. Olaf graduate who longs for the wonderfully progressive attitudes and programs I remember from my days there, I was appalled to read of the influence a man like Arlon Lindner has on the Minnesota Legislature. It seems he has brought his brand of right-wing fundamentalism north and is turning the Minnesota Republican Party into a mirror image of the national party with



# With GOD on His SIDE

Is Arlon Lindner just a political maverick who says what's in his heart, or is he leading the conservative charge in Minnesota? BY ANDY STEINER  
PHOTOGRAPH BY KEVIN ALFREDSON

**What if God's Gay?** Thank you to Arlon Lindner ("With God on His Side," July 2003) for reminding us just how hateful, judgmental, and hypocritical Republicans can be. If it's not duplicitous warnings of a threat to America's security to sell an unjust war, it's an AIDS scare to promulgate hatred of homosexuals. I hope voters keep Lindner's (and Lott's) blundering words in mind when choosing our next political leaders. And to Mr. Lindner, who stands in judgment of so many Americans: Women often suggest the possibility that God is a woman to illustrate the problematics of our moral assumptions. Well, ponder this: What if God's gay?

M. JOHNSON, *Sauk Rapids*

its DeLays, Ashcrofts, Gingriches, and Lotts. Where have thoughtful, rational leaders like the Youngdahls and Quies and Wellstones gone? What concerns me even more is that there were enough [like-minded] voters in Corcoran to elect this man. Are critical thinking skills not being taught in Minnesota anymore? Or is this all just an aftereffect of the Boa's four years in office?

ROGER STRAND  
*Carlisle, Pa.*

When I saw Arlon Lindner featured in last month's *Minnesota Monthly*, the hair started to stand up on the back of my neck. [Publishing] an article about Lindner and his extreme and prejudiced opinions helps him validate his very warped perspective.

I was not pleased to see this article in the magazine that represents *my* Minnesota Public Radio. My understanding is that

the MPR listener base (and contributing members such as myself) are generally progressive, interested in getting rid of all forms of prejudice in our society ... [and] certainly not in the conservative, right-wing, religious fundamentalist camp (which Arlon Lindner certainly is).

JERRY J. SANKOT  
*St. Paul*

### Apropos of Prader-Willi

As a certified pediatric nurse practitioner, I am appalled at the total lack of compassion and sensitivity psychologist Sarah Bridges displays for her clients afflicted with Prader-Willi Syndrome (PWS) in her article "How Was the Food?" (July 2003). Instead of providing readers with insight into the intense emotional and physical suffering of people with PWS, Bridges' article is filled with glib attempts at amusing and contrived anecdotes that

**NOMINATE A MINNESOTAN OF THE YEAR** Who do you think should be *Minnesota Monthly's* 2003 Minnesotan of the Year? Each year, we choose a Minnesotan who has contributed significantly to the quality of life in this state through a sustained period of influence, a notable event or contribution during 2003, a broad range of activities with far-reaching impact, a deep commitment to social betterment, and/or a pattern of civic and social involvement. Send us the name and contact information, if you have it, of your nominee(s), along with supporting information about how they meet the above criteria. Thanks for your participation. **Send nomination(s) to [jjohnson@mnmo.com](mailto:jjohnson@mnmo.com).**



EFFORT TO UNSEAT MEMBERS  
1967 - 1996  
MINNESOTA HOUSE OF REPRESENTATIVES

4 IN 30 YEARS  
ALL ELECTIONS VIOLATIONS

YEAR	MEMBER	CHARGE	ACTION BY HOUSE	OUTCOME
1994	Alan Welle	Alleged misuse of long distance telephone access card.	No House action. No official journal entry.	Resigned from legislature January 4, 1994, after pleading guilty to misconduct by a public official in the "phonegate" scandal.
1990	Jeff Conway	Alleged defrauding of investment clients.	No House action. No official journal entry.	Resigned from House effective March 13, 1990.
1987	Ken Kludt	Alleged solicitation of a prostitute, a violation of Minnesota Statutes, section 609.324, subdivision 3.	After investigation by the Select Committee on Ethics and the Committee on Rules and Legislative Administration the House found Representative Kludt's conduct inappropriate and unbecoming for a member of the House and ordered Representative Kludt to make a written apology and the apology to be printed in the Journal of the House.	Pled guilty to soliciting prostitution, a misdemeanor, and did not run for reelection.



YEAR	MEMBER	CHARGE	ACTION BY HOUSE	OUTCOME
1986	Randy Staten	<p>1. Alleged violations of Minnesota Statutes, section 609.52, subdivisions 2(3)(a) and 3 (committing theft by writing bad checks.)</p> <p>2. Alleged violations of chapter 10A, the Ethics in Government Act, in the matter of repeated late filings and incomplete campaign reports as it relates to the Staten Volunteer Committee.</p>	<p>Investigation by the Select Committee on Ethics and the Committee on Rules and Legislative Administration found that Representative Staten's conduct reflected a pattern of willful neglect and willful and deliberate conduct in disregard of state law and failure to meet the standard of conduct for members of the House and recommended that Representative Staten be expelled pursuant to the Minnesota Constitution, Article IV, Section 7. The full House vote for expulsion failed 80-52. (A two-thirds vote or 90 votes is required for expulsion.) House then censured Representative Staten on a vote of 99-31 for conduct and individual judgment that was inappropriate and unacceptable in the eyes of his colleagues in the Minnesota House of Representatives.</p>	<p>Pled guilty to felony check fraud but the sentence imposed in Hennepin county was 90 days which in effect made the crime a misdemeanor and Representative Staten did not suffer a loss of his civil rights and therefore remained a qualified voter as required by the Minnesota Constitution to be eligible to serve in the Minnesota Legislature. Staten did not run for reelection.</p>

YEAR	MEMBER	CHARGE	ACTION BY HOUSE	OUTCOME
1979	Robert Pavlak	Election contest Kempe vs Pavlak	Received communication from the Minnesota Supreme Court which determined that Robert Pavlak committed a deliberate, serious and material violation of Minnesota election law. Referred to Committee on General Legislation and Veterans Affairs. On May 18, 1979, by a vote of 67-66 the House declared that Robert Pavlak was not legally elected and is not entitled to retain his seat and that there is a vacancy in the office of Representative from House District 67A and that this vacancy be certified to Governor Quie so that he may issue a writ of election as provided by law so the vacancy may be filled.	Pavlak ran in Special Election held on June 19, 1979, and lost to Frank Rodriguez by a vote of 3,608 to 3,287.
1977	David Cummiskey	Election contest Evans vs Cummiskey	Received files and exhibits from District Court relating to election contest. No action taken.	Motion to return files and exhibits to District Court prevailed.

YEAR	MEMBER	CHARGE	ACTION BY HOUSE	OUTCOME
1973	Donald M. Moe	Alleged campaign violations.	Flakne motion that House declare a vacancy in District 65B currently occupied by Donald M. Moe, until final determination by the proper courts on certain accusations contained in an indictment issued by the grand jury of Ramsey county against Donald M. Moe, failed on a 41-87 vote.	
1973	William R. Ojala	Alleged failure to file state or federal income tax returns for 1969, 1970 and 1971.	Dirlam motion to declare a vacancy in District 6A, currently occupied by William R. Ojala, failed on a 44-84 vote.	
1969	Barney Bischoff	Election contest Fena vs Bischoff	Received communication and court records from District Court in St. Louis county relating to election contest. Referred to Committee on Elections and Reapportionment. Swanstrom motion to adopt report from Committee on Elections and Reapportionment was adopted on a voice vote and the House duly declared a vacancy in District 63, and that Barney Bischoff was not legally elected and that Governor LeVander declare a special election.	Bischoff ran in a special election held on February 25, 1969, and was then elected to the House.

YEAR	MEMBER	CHARGE	ACTION BY HOUSE	OUTCOME
1969	Edward R. Brandt	Election contest Smaby vs Brandt	Records received from Hennepin County District Court and referred to Committee on Elections and Reapportionment. Report of Committee on election contest declares vacancy. Motion that Committee Report on election contest lay over and committee be instructed to take additional testimony and evidence. Committee, pursuant to instruction, reports back with amendments to laid over Committee Report. Amendments adopted. Committee Report no longer recommends a vacancy in District 41. Committee Report, as amended, adopted 92-18.	
1967	Howard E. Smith	Election contest Nurminen vs Smith	Records received from Crow Wing County District Court and referred to Committee on Elections and Reapportionment. Committee reports back recommending that Howard E. Smith be allowed to continue to occupy his seat from District 52A.	

\*NOTE: This report was prepared by the Chief Clerk's Office for informational purposes only.  
Contents are unofficial and have not been verified by the House legal department.