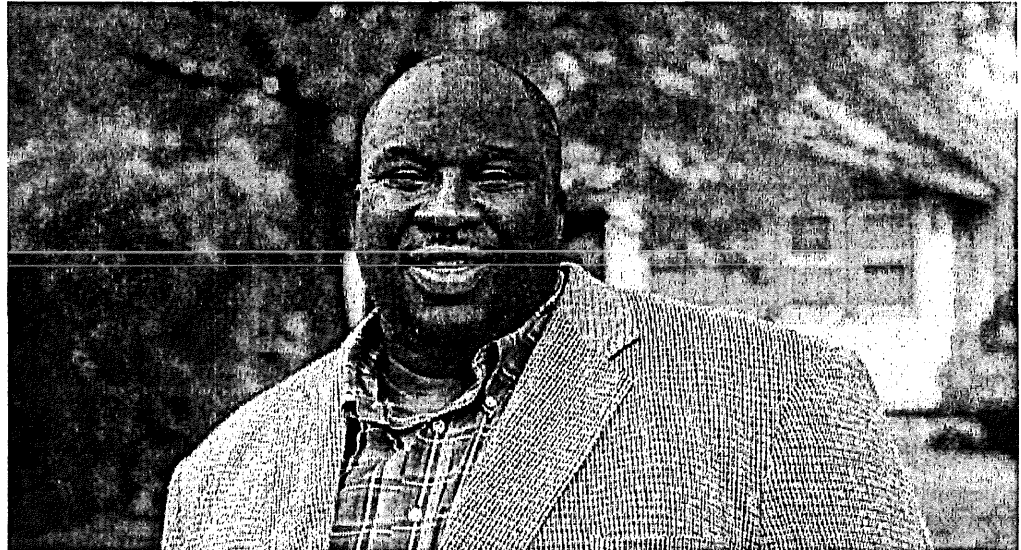


Politics in Minnesota
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Sen. Jeff Hayden, DFL-Minneapolis, denies any wrong doing and says he looks "forward to resolving this matter before the Subcommittee on Ethical Conduct as soon as possible." (File photo)

GOP seeks probe of Hayden, nonprofits

By: Mike Mosedale September 26, 2014 0

After six Senate Republicans on Wednesday called for an ethics investigation of Deputy Majority Leader Jeff Hayden, DFL-Minneapolis, and his relationship with two embattled nonprofit organizations, one thing has been established with certainty: The Senate Subcommittee on Ethical Conduct will be forced to take up the politically delicate matter before election day.

Under the chamber's permanent rules, the four-member panel — which consists of two DFLers and two Republicans — must meet within 30 days of receiving the complaint. At that point, according to Senate counsel Tom Bottern, the committee can then vote to dismiss the complaint for lack of probable cause, proceed with an investigation or defer action to a later date.

"I don't know if the committee will find probable cause, but I do believe the evidence deserves to be investigated," said Senate Minority Leader David Hann, R-Eden Prairie, at a press conference.

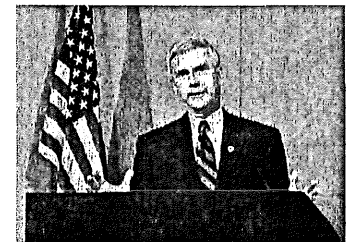
Hann denied that politics played any role in the timing of the filing of the complaint, saying that he and fellow Republicans are acting now because they only recently became aware of the burgeoning controversies involving the two nonprofits.

"We shouldn't be trying to hide this or sweep it under the rug," Hann said. "We have to make it clear to the public that this is not normal, not acceptable and we shouldn't tolerate it," said Hann.

Hann did take a few partisan jabs, however, charging that the lavish spending and poor results at the two nonprofit groups are a consequence of 40 years of one-party rule in Minneapolis.

Hayden's actions, Hann added, "make the rest of the Senate look bad."

In a prepared statement, Hayden denied any wrong doing and said he looks "forward to resolving this matter before the Subcommittee on Ethical Conduct as soon as possible."



On Wednesday, Senate Minority Leader David Hann, R-Eden, and five fellow Republican senators called for an ethics probe of Senate Deputy Majority Leader Jeff Hayden, DFL-Minneapolis, in connection with alleged financial abuses at the nonprofit organization Community Action of Minneapolis. (Staff photo: Mike Mosedale)

The subcommittee has not met since 2012 when Senate Democrats accused Geoff Michel — a since-retired senator from Edina — of lying about details of an affair between former Senate President Amy Koch and staffer Michael Brodkorb. The panel deadlocked along party lines and ultimately took no action.

According to a report from the Legislative Reference Library, the Senate ethics subcommittee has examined 17 cases involving senators dating back to 1994. The majority of cases resulted in an outright dismissal, sometimes with a requirement that the senator issue a public apology as a condition.

In two of the instances, senators were forced to resign from leadership posts or committee assignments. In the two most serious cases, the subjects of the inquiries — former Sens. Skip Finn and Joe Bertram — faced criminal charges and resigned before the panel could impose any sanctions.

"We don't get a lot of real hearings on this stuff, but generally one of two things happens. If it's really clear that the person has done something wrong, they resign or at least you get a unanimous decision. If the complaints are more partisan in nature — surprise! — the investigations usually don't go very well, and you get a deadlock," said David Schultz, a political scientist at Hamline University.

"Legislators are not very good at policing their own. There probably ought to be some sort of outside body — an independent ethics commission might be a model — but legislators are loath to turn that authority over," Schultz added.

Attorney Fritz Knaak, a former senator who has also represented senators before the ethics panel, takes a different view.

"I think, generally speaking, it has served the Senate very well over the years," said Knaak. "It can be used for political reasons, but I think the basic framework is a good one and, for the most part, works well."

He said political balance on the panel serves as an important safeguard, since it ensures a measure of bipartisan consensus before any sanctions can be imposed. Although the subcommittee can recommend expulsion, Knaak said he is unaware of any case in which that has occurred in Minnesota.

Knaak said he doubts the panel will dismiss the Hayden complaint outright: "There's enough notoriety in this case, I think the pressure is on to follow through and have investigation and a hearing, and give Sen. Hayden an opportunity to explain what happened."

The four-page complaint against Hayden — which was signed by Hann and five fellow Republican senators — comprises two distinct issues.

The first part, based principally on a report in the Star Tribune, alleges that Hayden failed to disclose a conflict of interest and "misused his influence" when he lobbied on behalf of Community Standards Initiative, a nonprofit group that aims to close the achievement gap between white and minority students in north Minneapolis.

Specifically, the complaint states that Hayden and Sen. Bobby Jo Champion, DFL-Minneapolis threatened to withhold state aid from the Minneapolis School District if the board didn't approve a \$375,000 contract with CSI. Previously, Hayden and Champion had helped secure state grants for CSI, which has come under intense criticism for failing to meet the basic benchmarks established in its contracts with the school district.

The second complaint centers on Hayden's former role as a board member of Community Action of Minneapolis, an anti-poverty group that offers assistance on such services as home weatherization.

A withering audit from the Department of Health and Human Services found that the CAM's executive director, Bill Davis, misspent approximately \$800,000 in public money on perks that included airfare to the Bahamas and Florida golf outings and charged that the organization grossly exceeded the permissible spending on administrative costs.

The audit also expressly criticized CAM's board of directors for failing in their oversight duties.

In the wake of those disclosures, Hayden resigned from the board, following the suit of Congressman Keith Ellison, who was also a board member. Hayden and Ellison have said they were unaware of the alleged financial improprieties because they had assigned alternates to serve on their behalf.

Schultz, who called the CAM "a textbook example of how not to run a nonprofit," said that defense might not matter.

"As a board member, you have a duty of loyalty, care and obedience. You're acting as a fiduciary in the best interest of the organization and you have a real legal duty to do your homework. State law says that," said Schultz.

"Was Hayden derelict in that he didn't take his role seriously as a board member? Yeah, I think so. So was Keith

Ellison, so was the entire board. They were all terribly derelict," Schultz said. "Should he have known better? I think so. But I'm not sure you can say this is a singular breach of ethics on the part of Hayden."

Regardless of the outcome of the ethics case, Schultz said, Hayden and the fellow members of the board could be subject to civil litigation in the event that the state tries to recoup the allegedly misappropriated grant monies.

He said the apparent abuses at CAM also point to a much larger problem: the lax oversight of publicly funded nonprofits. "If we're going to be dispensing billions of dollars to nonprofits every biennium, we need better audits and controls," he said. "As it is, we have horrible oversight."

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