

**STATE OF MINNESOTA****DISTRICT COURT****COUNTY OF RAMSEY****SECOND JUDICIAL DISTRICT**

Association for Government Accountability,

Petitioner,

Case Type: Civil

v.

Court File No. \_\_\_\_\_

Myron Frans in his Official Capacity as  
 Commissioner of Management and Budget  
 as a agency of the Executive Branch of the  
 State of Minnesota;  
 Minnesota House of Representatives Budget  
 and Accounting Office, and Minnesota Senate  
 Fiscal Services Department,

Respondents.

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**ORDER TO SHOW CAUSE FOR A WRIT OF MANDAMUS**

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**To:** Myron Frans in his Official Capacity as Commissioner of Management and Budget as a agency of the Executive Branch of the State of Minnesota; Minnesota House of Representatives Budget and Accounting Office, and Minnesota Senate Fiscal Services Department:

The Petitioner Association for Government Accountability through its attorney Erick G. Kaardal of Mohrman, Kaardal & Erickson, P.A. requests this Court, under Minnesota Statute § 586.0, to issue a writ of mandamus upon the Respondents Myron Frans in his Official Capacity as Commissioner of Management and Budget as a agency of the Executive Branch of the State of Minnesota; Minnesota House of Representatives Budget and Accounting Office, and Minnesota Senate Fiscal Services Department. The Petition for a writ of mandamus has been filed with this Court, served upon the Respondents, and

reviewed accordingly. There are no other alternatives under the law to remedy the relief requested.

The Association for Government Accountability (“AGA”) seeks this Court to issue a writ of mandamus requiring the Commissioner of Management and Budget to pay the salaries of the Minnesota state legislators starting on July 1, 2017 as he is required to do so by law. AGA does not assert a direct claim against the Minnesota House of Representatives Budget and Accounting Office, and Minnesota Senate Fiscal Services Department, but has identified them as interested parties because the appropriations for salaries is made through the Budget and Management Office of the executive branch of government to these legislative offices and then directly to each legislator.

AGA argues that during last year’s election, a state constitutional amendment was enacted that created a Legislative Salary Council which established the base salary of state legislators at \$45,000, effective on July 1, 2017. Under Minnesota law, the State’s Constitution mandates the funding of constitutional prerogatives of elected officials. AGA asserts that the prerogative arises from a constitutional amendment about legislator salaries. Further, AGA asserts that Governor Dayton, with his recent line-item veto of funding for the legislative branch of government, brings the issue of funding prerogatives to the forefront and to the brink of a “state constitutional crisis.”

Essentially, AGA claims that with the Governor’s use of his line-item veto authority, he has de-funded the legislature bringing legislator salaries to zero. Moreover, without the funding of salaries, the AGA asserts that the Governor’s act has effectively brought the legislative branch has ground to a halt. Notably, it claims that any work between now and

the next session is directly impeded and the people are effectively without local representation. Notably, this implies a separation of powers crisis under Minnesota's Constitution under Article III, section 1.

Since the legislative session has ended, as have the recent special sessions, the legislature cannot override the Governor's veto. There is no law that allows the legislature itself to convene to override the line-item veto or to otherwise appropriate funding regarding their respective salaries. It is noted that the next legislative session will not commence until early next year, thus, there is no other remedy at law available to pursue.

Moreover, AGA asserts that the Minnesota Supreme Court has held that the Constitution mandates the funding of constitutional prerogatives of elected officials. *See State ex rel. Mattson v. Kiedrowski*, 391 N.W.2d 777 (Minn. 1986) (requiring funding of State Treasurer's constitutional prerogatives). Thus, in combination of the constitutional, statutory, and common law, there is an issue under the circumstances of this case that requires district court review and action.

Therefore, it is **ORDERED THAT:**

1. The Respondent Myron Frans in his Official Capacity as Commissioner of Management and Budget as a agency of the Executive Branch of the State of Minnesota shall show cause as to why this Court should not grant the Petitioner Association for Government Accountability's requested writ of mandamus;
2. Likewise, the Respondents Minnesota House of Representatives Budget and Accounting Office, and Minnesota Senate Fiscal Services Department shall show cause as to why this Court should not grant the Petitioner Association for Government Accountability's requested writ of mandamus;
3. Each of the Respondents shall explain to this Court:

Whether Minnesota's Constitution, statutory law, and common law mandates funding of the state legislators salaries by July 1, 2017;

Whether the district court can order the payment of the state legislator salaries despite the lack of an appropriation bill enacted into law, keeping in mind the authority this Court has used in such situations as the 2011 government impasse to appropriate moneys for core functions of governmental agencies, departments, or programs. *See e.g., In re Temporary Funding of Core Functions of the Executive Branch of the State of Minnesota*, 62-CV-11-5203 (2011).

4. The Respondents shall respond to the Petition by Friday, June May 19, by filing with the Court their written memorandum, affidavits, and exhibits, and serving upon the Petitioner's attorney those same documents by hand or by email (at [kaardal@mklaw.com](mailto:kaardal@mklaw.com) and [gynild@mklaw.com](mailto:gynild@mklaw.com)) providing that the email attachments are of sufficient size to ensure its complete delivery no later than 12 midnight on June 12, 2017.
5. The Petitioner's attorney may respond to the Respondents submissions by filing with the Court their written memorandum, affidavits, and exhibits, and serving upon the Respondents attorney those same documents by hand or by email by 12 midnight, Monday June 19, 2017.
6. Each of the Respondent's attorneys shall immediately file a notice of appearance, contact, and provide Petitioner's counsel with all necessary information to effect the instant order to show cause such as email addresses, office address, and phone numbers.
7. The hearing on this matter will be scheduled by this Court.

8. The Petitioner's counsel shall serve the instant Order to Show Cause upon the Respondents and the Minnesota Attorney General in accordance with Rule 4 of the Minnesota Rules of Civil Procedure.

Dated: June \_\_\_\_, 2017

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Judge, Ramsey County District Court