

Senator Jeff Essmann, President
Montana State Senate
Capitol Station
Helena, Montana 59620
406.534.3345
jessmann@mt.gov

MONTANA STATE SENATE, OFFICE OF THE PRESIDENT

**In Re Matter of the Investigation of
Senators Shannon Augare, Jon Sesso and
Larry Jent**

SUBPOENA

**TO: Senator Shannon Augare
Montana Senate, Senate District 8
Capitol Station, Helena, Montana 59620**

FROM: MONTANA STATE SENATE, OFFICE OF THE PRESIDENT

Pursuant to Senate Rules, Rule S10-50(5) and Mont. Codes Ann. §§ 5-5-101 through 5-5-105, **YOU ARE HEREBY COMMANDED**, all business and excuses laid aside, to appear together with information herein described. Proceedings relating to this matter will take place in the Office of the Montana Senate President promptly at 12:00, NOON, MST, Wednesday, April 10, 2013.

In addition to any testimony required, **YOU ARE REQUIRED TO PRODUCE** the below-designated documents, electronically-stored information, tangible things or property in your possession, custody or control, and to permit the parties to inspect, copy, test, or sample the

materials at the Office of the Montana Senate President **on or before the time and place specified above.** *If you neglect, refuse or fail to obey this subpoena the Senate may, by resolution entered in the journal, commit you for contempt, and may also subject you to arrest and brought before the Senate. Per Mont. Code Ann. § 5-5-104, the only warrant of authority necessary to authorize your arrest is a copy of a properly signed resolution of the Senate.*

In conducting these proceedings it will be necessary that the Montana Senate review all relevant documents and communications pertaining to the absence of Senator Augare from the Montana Senate on April 5, 2013 and his required duties that day. This includes communications and circumstances that pertain to anyone with knowledge of Senator Augare being absent from Senate proceedings, or aiding in his absence from Senate affairs and business.

To facilitate Montana Senate proceedings relating to this matter you are required to produce all documents and communications, phone records and computer communications, in your possession or in the possession of any and all of your vendors, agents, employees, including Senate employees, representatives or assigns concerning the circumstances pertaining to Senator Augare's absence.

This includes any and all records, phone records from personal cell phones, emails, text messages, tweets, postings or other electronic communications as well as notes, books, papers, correspondence, memorandums, recorded messages in anyway pertaining to Senator Augare's absence.

Your preservation and production of all documents and communications, and your attendance is essential and legally required.

You are further advised that Mont. Code Ann. § 45-7-207 requires you to maintain the records, documents and communications requested herein and that, pursuant to the statute:

45-7-207. Tampering with or fabricating physical evidence. (1) A person commits the offense of tampering with or fabricating physical evidence if, believing that an official proceeding or investigation is pending or about to be instituted, the person:

(a) alters, destroys, conceals, or removes any record, document, or thing with purpose to impair its verity or availability in the proceeding or investigation; or

(b) makes, presents, or uses any record, document, or thing knowing it to be false and with purpose to mislead any person who is or may be engaged in the proceeding or investigation.

(2) A person convicted of tampering with or fabricating physical evidence shall be imprisoned in the state prison for a term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both.

DEFINITIONS

“And” or **“or”** means **“and/or”** with any word presented in the singular form deemed to include the plural and vice versa, where appropriate. The disjunctive shall be read as propounded in the conjunctive and vice versa.

“You” or **“yours”** shall mean the person to whom or the entity to which this subpoena is addressed as well as any employees, agents, or other persons presently or formerly acting on your behalf.

“Document” or **“documents”** is used herein within its broadest sense, and thus includes, without limitation originals and non-identical copies of letters, emails, faxes, telegrams, memoranda, reports, drafts, notes, summaries or records of conversations and interviews, minutes of meetings, diary entries, notebooks, agreements, printed publications, drawings and sketches, graphs, charts, photographs, brochures, intra and inter-department or office communications, marginal comments, sales literature, computer inputs, outputs and tapes, and all other writings, including tapes, phone records, and electronic and other data compilations from which information can be obtained, translated, if necessary, through detection devices into reasonably usable form, and any drafts or revisions of any of the foregoing. The term **“document”** also includes the file and folder tabs associated with each such aforesaid original and/or copy, all correspondence transmitting such document or explanation or commenting on the contents thereof, and all working or supporting papers.

“Communication” means the transmission, sending and/or receipt of information of any kind by and/or through any means including, but not limited to speech, writings, language (machine, foreign or otherwise), computer electronic communications of any kind, magnetic tape, video tape, photographs, graphs, symbols, signs, magnetic disks, sound, radio and/or video signals, telephone, teletype, telecommunication, telegram, microfilm, microfiche, photographic film of any type and/or other media of any kind.

The terms **“relating to”** or **“relate to”** shall mean to consist of, refer to, reflect on, arise out of, or be in any way or manner legally, factually, or logically connected with the matter discussed.

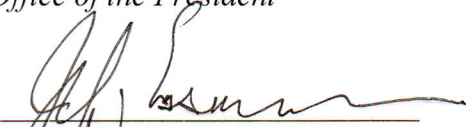
A document is in your “**possession**,” “**custody**,” or “**control**” if you physically possess the document or a copy thereof, if you have access to the document or a copy thereof, or if you have the right to secure the document or copy thereof from any other person or public or private entity having physical possession of it.

DATED this 6 day of April, 2013.

MONTANA STATE SENATE

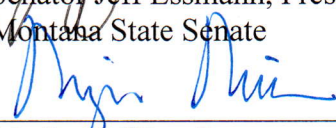
Office of the President

By:



Senator Jeff Essmann, President
Montana State Senate

By:



Marilyn Miller, Secretary
Montana State Senate