

STATE OF MINNESOTA
IN SUPREME COURT

A25-0066
A25-0068

FILED

January 24, 2025

**OFFICE OF
APPELLATE COURTS**

Steve Simon, Minnesota Secretary of State,

Petitioner,

vs.

Lisa Demuth,

Respondent (A25-0066).

Melissa Hortman, et al.,

Petitioners,

vs.

Lisa Demuth, Harry Niska, Paul Anderson,

Respondents (A25-0068).

PER CURIAM.

O R D E R

Secretary of State Steve Simon filed a petition for a writ of quo warranto against Representative Lisa Demuth claiming that on January 14, 2025, and on each day since, the Minnesota House of Representatives did not have a quorum to transact business. *Steve Simon, Minnesota Secretary of State v. Lisa Demuth*, No. A25-0066. Representatives

Melissa Hortman, Jamie Long, and Athena Hollins also filed a petition for a writ of quo warranto against Representatives Lisa Demuth, Harry Niska, and Paul Anderson asserting the same claim. *Melissa Hortman, et al., v. Lisa Demuth, et al.*, No. A25-0068. We are asked to decide what constitutes a quorum for the Minnesota House of Representatives under Minnesota Constitution, Article IV, Section 13.

Based on consideration of all briefs and files in the record as well as oral argument, we conclude that this question is justiciable. *See State ex rel. Palmer v. Perpich*, 182 N.W.2d 182, 184–85 (Minn. 1971). We further conclude that Secretary of State Steve Simon has standing to bring the claim, and we reject respondents’ assertion that the equitable doctrine of “unclean hands” precludes consideration of his claim. Because Secretary of State Simon’s petition is justiciable, we may address the issue of the quorum clause’s meaning without deciding the justiciability of the petition by Representatives Hortman, Long, and Hollins.

We further hold that under Article IV, Section 13, of the Minnesota Constitution, which requires that “[a] majority of each house constitutes a quorum to transact business,” a quorum requires a majority of the total number of seats of each house. Vacancies do not reduce the number required for a majority of each house to constitute a quorum. By statute, the total number of seats in the Minnesota House of Representatives is 134 seats. Minn. Stat. § 2.021 (2024) (“For each legislature, until a new apportionment shall have been made, the senate is composed of 67 members and the house of representatives is composed of 134 members.”); *see* Minn. Const., art. IV, § 2 (“The number of members who compose the senate and house of representatives shall be prescribed by law.”). Accordingly, in the

Minnesota House of Representatives, a quorum for purposes of Article IV, Section 13, of the Minnesota Constitution, based on the current total number of seats prescribed by law, is 68.

Our resolution as to the meaning of the Minnesota Constitution's quorum clause should be sufficient to resolve the issues raised by the petitions. "We assume that the parties will now conform to this opinion without the necessity of issuing a formal writ." *Palmer*, 182 N.W.2d at 186.

IT IS HEREBY ORDERED THAT:

1. The two petitions for writs of quo warranto, *Steve Simon, Minnesota Secretary of State v. Lisa Demuth*, No. A25-0066, and *Melissa Hortman, et al., v. Lisa Demuth, et al.*, No. A25-0068, are consolidated. See Minn. R. Civ. App. P. 103.02, subd. 3.

2. The quorum clause in Article IV, Section 13, of the Minnesota Constitution, requires a majority of the total number of seats of which each house may consist to constitute a quorum. Because under current statute, the total number of seats in the Minnesota House of Representatives is 134, a quorum under Article IV, § 13, is 68 members.

3. We assume that the parties will now conform to this order without the necessity of issuing a formal writ.

4. This order is issued with an opinion to follow.

Dated: January 24, 2025

PROCACCINI, J., took no part in the consideration or decision of this case.