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TO: Members of the Senate Higher Education Committee

FROM: Joan White, Senate Counsel

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RE: University of Minnesota Constitutional Autonomy and Regent Selection and Election Process

## **University of Minnesota Constitutional Autonomy**

The University of Minnesota was established and its powers enumerated through a territorial charter in the Minnesota Territorial Laws of 1851, which was before Minnesota became a state. The charter provided that the government of the university be vested in 12 regents elected biennially by the Legislature, one-third of the board, or four regents, elected each odd-numbered year in a Joint Convention of both branches of the government to serve six-year staggered terms. The Governor has the duty to fill any vacancy until the Legislature elects a successor. In 1858, Minnesota became a state and all rights granted or conferred upon the University were extended onto the university in the Minnesota constitution. The recognition of the University's charter in the constitution gave the university the unique status of constitutional autonomy, which is a legal principal that makes the university a separate department of the government, not a state agency, giving the Board of Regents the power and authority to manage the university.

## **Regent Selection Process**

The members of the Senate and House Higher Education Committees have the opportunity to impact the governance of the University of Minnesota through the process of recommending regent candidates to the Joint Convention. Below is an explanation of the University of Minnesota Board of Regents and a description of the regent selection and election process.

The composition of the board of regents consists of eight members from each congressional district and four at-large members, one of whom must be a current student at the university. This year, the terms of the regents representing the Second, Third, and Eight congressional districts and one at-large seat expire.

**Regent Candidate Advisory Council**  
**(Minnesota Statutes, section 137.0245)**

Duties

The Regent Candidate Advisory Council (RCAC) was established by the Legislature in 1988 to assist in recruiting, screening, interviewing, and recommending candidates to the Joint Committee. Generally, the application for open regent positions is posted in October of even-numbered years, and candidates are recruited and interviewed, references are checked, written responses of candidates are reviewed, and public interviews of candidates take place the first couple weeks of January of odd-numbered years. RCAC is required to recommend at least two but not more than four candidates for each position by January 15 of each odd-numbered year to the Joint Committee. According to the RCAC website, interviews are taking place this week on January 10, 11, and 12, with the selection of candidates scheduled for Friday, January 13, 2023.

Composition

The Regent Candidate Advisory Council consists of 24 members, in which half of the members are appointed by the Senate and half by the House. The 12 Senate members are appointed by the Subcommittee on Committees of the Committee on Rules and Administration, and the House members are appointed by the Speaker. For each of the chamber's 12 appointees, one must be a current student, no more than four can be current or former legislators, and no more than eight can be from the same political party. Also, geographical representation must be taken into consideration. Members are elected to six-year staggered terms, except for the students, who are elected to two-year terms. A member may not serve more than two full terms.

**Joint Committee**

**(Joint Rule 4.01 and Minnesota Statutes, section 137.0246)**

The Joint Legislative Committee consists of the members of the House and Senate Higher Education Committees. The chairs of the divisions from each body are co-chairs and a majority from each body is a quorum of the Joint Committee. By February 28 of each odd-numbered year, or a date agreed on by concurrent resolution, the Joint Committee is required to meet to consider RCAC recommendations and recommend nominees to the Joint Convention. The Joint Committee may recommend to the Joint Convention candidates recommended by RCAC and other candidates nominated by the Joint Committee members, however these nominations must be made for a specified seat and need the support of at least three House members and two Senate members. The joint rules state that the Joint Committee must meet and make recommendations for the vacancies, so making no recommendation is not an option. The roll call is viva voce, and a candidate must receive a majority vote of members from both the House and the Senate to be recommended to the Joint Convention. The statute states that the Joint Committee may recommend *no more than one candidate* for each vacancy, however, the rule is inconsistent with the statute, as it allows the Joint Committee to recommend *candidates*. In the recent past, specifically in 2013, 2015, 2018, and 2019, facing an impasse, a member of the Joint Committee moved to make two recommendations for one vacancy, which passed, and the Joint Committee forwarded two names for a single vacancy.

**Joint Convention**  
**(Joint rule 4.02)**

The Joint Convention occurs when the members of the House and Senate meet in the House Chamber to elect regents. The Joint Convention is scheduled by the leadership of both bodies, taking the form of an invitation from the House to meet in Joint Convention, and the Senate's acceptance of the invitation. This must occur while the Legislature is in session. The body receives the report from the Joint Committee listing the regent candidates, who are considered nominated. The rule provides that the roll call be called viva voce, and the congressional districts must be called first until they are filled, then the student seat, and then the at-large seats. Additional nominations may be submitted by any member of the body.

A candidate must receive a majority of votes cast to be declared elected to fill the congressional district seat and the student seat (there is not a vacant student seat this year). If no candidate receives a majority on the first ballot, the candidate with the fewest votes and the candidate with fewer than 20 votes are dropped from consideration, and votes are cast again until a majority vote is achieved.

This year, there is only one at-large seat vacant. When there is more than one at-large seat vacant, all candidates nominated for an at-large seat are candidates for any of the at-large seats. The voting takes place simultaneously, and a member has one vote per seat, but no more than one vote for a candidate. If there is more than one at-large seat to be filled and more than one candidate receives a majority of votes cast, the candidates receiving the highest number of votes are declared elected. If no candidate receives the majority threshold, the candidate receiving the fewest votes and candidates receiving fewer than 20 votes are dropped on succeeding ballots.

When all regent seats have been filled, the Joint Convention adjourns.