

April 1, 1986

Mr. Jan LeSeur
Legislative Reference Library
State Capitol Building
Room 645
St. Paul, Minnesota 55155

Dear Mr. LeSeur:

Enclosed you will find a roster list of the Study Group members plus copies of the final report and recommendations and an article in the MINNESOTA magazine regarding regents selection.

If you have any questions or need any additional information, please do not hesitate to contact me at 373-2466.

Sincerely,



Elaine E. Hughes
Secretary to the Regents Selection
Study Group

e/e
Enclosures

REGENTS SELECTION PROCESS
Independent Study Group Roster

Mr. Elmer L. Andersen
Ms. Sharon Sayles Belton
Mrs. Gladys Brooks
Dr. Ray Darland
Mr. Kenneth Dayton
Mr. Gordon Donhowe
Mr. Philip S. Duff, Jr.
Mr. Willis Eken
Mr. John French
Dr. Richard Green
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Ms. Geri M. Joseph
Ms. Jean B. Keffeler
Mr. Ted G. Kolderie
Mr. Lauris Krenik
Mrs. Frances Naftalin
Ms. Medora Perlman
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Ms. Emily Anne Staples
Mr. Tom Swain
Mr. T. Williams
Ms. Penny Winton

The Regents Selection Process
Independent Study Group
Final Report and Recommendations
Neil Sherburne, Chair

I. Introduction and Statement of Purpose

This report is the result of three months of deliberation and consultation by a group of 23 Minnesotans who have come together at the request of the Public Policy Committee of the Minnesota Alumni Association (MAA) Board of Directors. The Regents Selection Process Study Group was formed to perform an independent study of the process by which Regents are chosen to govern the University of Minnesota.

An initial study by the Alumni Association Public Policy Committee had found concern expressed by knowledgeable people that the current process might discourage well-qualified candidates who are political independents or have not been active in political work. A perception exists that political partisanship is the main qualification for Regents, and there is widespread lack of knowledge about the process by which Regents are selected.

Most Minnesotans, not just alumni, have a sense of commitment to the University and an interest in its future. Recognizing that commitment, the Association asked a broadly representative group to assess independently the current selection process and to identify any changes that might serve to improve it. The committee's purpose was not to criticize past or current Regents but to identify ways to ensure continued strong governance in the future.

Independent Study Group members and affiliations are listed in Appendix A. Appendix B is a prepublication copy of a lengthy feature story on this subject that will run in the spring issue of the Alumni Association bimonthly magazine Minnesota. Other background information is available if needed.

In selecting members, careful attention was given to including both alumni and nonalumni of the University. The Study Group included three former University Regents, three present or former legislators, one former governor, seven people with past or present connections to the University faculty, administration, or alumni, and several with backgrounds in business or non-University educational administration.

Through its present campaign to create endowed chairs and to implement University President Kenneth H. Keller's Commitment to Focus initiative, the University of Minnesota is embarking on a quest for quality that would place it among the top five public universities in the country. It is a goal that all Minnesotans can support, but one that cannot be accomplished without sensitive and knowledgeable governance from the University's Regents.

A Public Partnership for Informed Regents Election

The University of Minnesota Board of Regents is responsible for policy and governance of one of the state's most valuable resources, a one billion dollar enterprise that contributes substantially to every aspect of life in Minnesota and beyond. The prestigious, voluntary post of University Regent is one of the most important offices in the state, yet few Minnesotans are aware of how Regents are chosen. The process of self-nomination, caucus recommendations and election by the joint convention of the Legislature is not visible to the public nor is it a process in which the public participates directly. While the present system has resulted in the election of outstanding Regents, it does not ensure that quality candidates will always be available at a time when the University faces opportunities and challenges for even greater service in the days ahead. Too often in the recent past rigorous legislative schedules have compressed the election process into the end-of-session rush, with little or no time for deliberate consideration.

This Study Group, made up of 23 Minnesotans with broad interests and backgrounds, proposes to complement the present system of legislative election with a continuing search process to identify and recruit the best qualified nominees to recommend to the Legislature for election.

Three months of study and thoughtful discussion went into the Study Group's recommendations. Among these recommendations: The responsibilities of Regents should be delineated and published. Specific skills and experience needed on the Board should be sought-- for example, experience in finance, federal higher education policy, student aid, extension services or economic development. Most important, a search process should broaden citizen involvement in pursuing a diverse and representative Board.

The members of the Study Group believe its recommendations underscore a commitment to an ever greater University and a continuing respect for all it has accomplished. The Study Group recognizes the contributions made by past and present Regents to the greatness of the University of Minnesota. It believes, however, that establishing appropriate criteria for Regent candidates and deliberately seeking out those who might serve best the wide-ranging interests of the University is an important step for the future. It could be indispensable to building both the University's reputation for excellence and attracting increased public support.

II. Method and Input

The Study Group has held five meetings, beginning with an introductory discussion meeting December 4 at which members were provided with background information on the current Regents selection process and related matter.

At a second meeting December 18, the study group heard testimony and asked questions of three witnesses: Emil Erikson, former chair of the Minnesota Higher Education Coordinating Board; Deon Stuthman, professor of agronomy and plant genetics and chair of the University Faculty Consultative Committee; and John Finnegan, senior vice president and executive editor of the St. Paul Pioneer Press and Dispatch. The Study Group also took considerable time to review the background of University/legislative relations and Regent selection in a discussion led by former governor Elmer Andersen.

At its third meeting January 7, the study group heard from David Laird, former deputy executive director of the Higher Education Coordinating Board and now vice president of Springsted, Inc., a finance consulting firm that advises university administrators; Robert Latz, St. Louis Park, Minnesota, attorney and former Regent; the Honorable Charles McGuiggan, chair of the University of Minnesota Board of Regents; and Lani Kawamura, director of state planning in the Perpich administration.

Study Group members discussed issues raised in previous meetings and were requested by chair Neil Sherburne to submit their written thoughts and recommendations. Prior to the fourth meeting on January 29, Study Group members reviewed these comments, which included several from Regents and individuals who were not members of the Study Group.

Also prior to the January 29 meeting of the Study Group, chair and former Regent Neil Sherburne and former governor Elmer Andersen visited with House Speaker David Jennings, Senate Majority Leader Roger Moe, and several legislative staff members at the state capitol to inform them of the Study Group's objectives and progress to date, and to hear their thoughts and suggestions.

At the January 29 meeting of the Study Group, members identified common themes and heard a report from Sherburne and Andersen about legislative reactions.

The body of this report is based on the consensus reached by Study Group members and approved for submission to the Minnesota State Legislature, the Board of Regents, and the Board of Directors of the Minnesota Alumni Association.

III. Recommendations

In order to continuously bring to the Board of Regents individuals with broad qualifications and applicable experience, the Regents Selection Process Study Group recommends the formation by the Legislature of a standing Regents Search Committee of representative Minnesota citizens, according to the following provisions:

- A. Composition of the Regents Search Committee to consist of three persons from each congressional district.
- B. One-third of the Committee to be appointed by the Speaker of the House, one-third by the Majority Leader of the Senate, and one-third by the Governor.
- C. Terms would be six years; for the first appointments, one-third of those appointed by each appointing authority would be for two-year terms, one-third for four-year terms, and one-third for six-years. Membership on the committee would be limited to two terms. Members would serve without pay.
- D. The Committee would:
 - 1. Research and publish desired criteria for Regents. Supply candidates a list of the Regents' responsibilities so that they understand the board's role.
 - 2. Encourage congressional district subcommittees to use the criteria and the list of responsibilities to identify the best-qualified district candidates for nomination by the committee. Provide staff support to the subcommittees.
 - 3. Identify, recruit, and nominate at-large Regent candidates based on criteria, desired experience, and potential for carrying out the Regents' responsibilities.
- E. For all searches, the Regents Search Committee would forward the names of more than one but not more than three qualified candidates for consideration by the legislative caucuses of the joint convention.
- F. To implement its public duties, the Regents Search Committee should be provided by the Legislature with a small professional staff and budget to operate searches, keep abreast of national developments in university governance, and provide liaison with legislators, current Regents, citizens, and individuals who seek to become candidates.

- G. Membership on either the Regents Search Committee or the Board of Regents would not be limited to University alumni. Commitment to public higher education and understanding of the University's mission and role in Minnesota's higher education system would be important attributes for members of both groups.
- H. Service of the Regents should be limited to two six-year terms.

IV. Benefits of Implementing These Recommendations

The Study Group's purpose in assessing the current Regents selection process was to find ways in which the process might be improved. Clearly, the current process has produced outstanding Regents. However, the current nomination process cannot assure Minnesotans that the best possible candidates will always be available to the Legislature for election. This fact, combined with the confused public perception that political partisanship is the only necessary qualification and a general lack of knowledge about the election process itself, undermines the credibility of any board and any Regent no matter how well qualified he or she may be.

Minnesotans, current Regents, and the University all deserve more assurance that the tasks facing the Regents and the University in the years ahead will be given the quality of consideration that they merit.

The Study Group is not proposing to change the current legislative election process or basic legislative responsibility--only to add a complementary process that broadens and enhances the pool from which Regents are chosen. If implemented, the recommendations outlined could help build the public confidence necessary for the task of moving the University into the nation's top ranks for quality of teaching and research.

The purpose behind this expanded search process is to broaden citizen involvement and bring to legislative attention a more diverse group of candidates who possess needed skills and experience relevant to board service. Freed of the time-consuming, end-of-session assessment of self-nominated Regent candidates, legislators would have the opportunity to apply the concerns of constituents in evaluating candidates and electing regents.

While the current process of self-nomination and campaigning would be redirected as candidates presented their credentials to the Regents Search Committee, it would still be possible for self-nominated candidates to present themselves to the Legislature, keeping the process as open as possible. Legislators would have the benefit of published criteria and a range of nominees as they made their choices. They would have the benefit of a well-organized, continuing search process.

District representation in the nomination process would be preserved, but all committee members would have a voice in establishing criteria for service and in determining the kinds of expertise desirable for board election.

THE MINNESOTA REPORT:

Regents Selection Reviewed

By Mathews Hollinshead

Myriad changes in the University's governing body—the Board of Regents—in its 126-year history. A look at how regents are selected today.

The twelve regents of the University of Minnesota shoulder one of the state's most challenging and complex public responsibilities: the governance of an institution with a 1986 budget of nearly \$1 billion, over 5,000 academic and 12,000 civil service employees, almost 80,000 students, annual research in all fields valued at over \$100 million, six separate teaching campuses, fifteen research campuses or centers, extension agents in all 87 Minnesota counties, and a heritage and mission as old as the state itself. Few things are as important to Minnesota as the education, research, and service the University provides citizens, businesses, the government, and others inside and outside the state.

To oversee such an important mission, the regents serve six-year terms without pay, meeting the second Friday of each month, every month. The questions they are called upon to decide can

vary in scope from the hiring of a specific staff member to the inauguration or termination of degree programs. Every vote affects one or more articulate constituencies of students, employees, or citizens—constituencies with well-defined interests of their own.

As if the regents' traditional, explicit responsibilities were not enough, the climate in which higher education operates has changed significantly in the 1980s. Enrollment declines have left all colleges and universities competing for students, and for tuition and appropriations, which are often based on enrollment. The high inflation of the late 1970s was not adequately reflected in most college and university incomes, including Minnesota's. Federal support for higher education is down and likely to fall further. State budget crises of the early 1980s forced painful retrenchments at many universities—Minnesota absorbed nearly \$50 million in cuts in one biennium. Background reading alone on questions facing the regents could be a full-time job.

The regents who must address such internal and external complexities are chosen politically—that is, by the legislature. Critics contend that the nominating of candidates for the legislature to vote on has, especially in the last decade, become inappropriately partisan; the office of University regent is becoming a political reward rather than a public trust.

Is University policy better served by distancing it from politics, or by allowing it to reflect the political diversity and changing concerns of voters and taxpayers?

Last fall a Minnesota House subcommittee on higher education heard testimony from Board of Regents chair Charles McGuiggan, former Minnesota Alumni Association (MAA) president Charles Osborne, former regents chair Neil Sherburne, and University student representative Elizabeth Kranz on improving the regents selection process.

President Kenneth H. Keller's "Commitment to Focus" plan to make the University one of the top five public universities, and the recent legislative release of Permanent University Fund for new endowed chairs, have directed the quest for excellence at the programs and faculty of the University. It is time, say MAA leaders and others in the University community, to ensure that excellence continues at the top as well.

In response to the issue, the MAA invited a group of citizens to conduct an independent public interest study. The 23-member group met in December 1985 and January 1986 to hear testimony and deliberate on possible recommendations for improving the selection process.

Not everyone is happy about that. Regents chair McGuiggan has characterized Minnesota as a Big Ten leader in adjusting from the growth years of the 1960s and early 1970s to the entrenchments of the early 1980s. He was the only one of the twelve University regents to respond to the public interest committee's invitation for consultation, and he challenged the need for the committee.

Minnesota is not the only place, nor the University the only institution, looking at the question of board-member selection. In 1980 the Association of Governing Boards (AGB), based in Washington, D.C., commissioned a study that produced eighteen specific recommendations on board selection.

All incorporated entities, including both public and private higher educational institutions, have governing boards responsible for institutional policy and mission. But public university boards are chosen by elected officials using constitutional or statutory procedures; private institutions consult only their own bylaws to select board members.

In Minnesota, the concern is that the University's dependence on politically determined leadership may not be appropriate for the newly competitive environment it faces. Others say that the representative nature of state and local politics is important protection against getting boards with narrow or even inappropriate agendas. Is University policy better served by distancing it from politics, or by allowing it to reflect the political diversity and changing concerns of voters and taxpayers?

In recent past both Minnesota Governor Rudy Perpich and Minnesota Speaker David Jennings have leveled strong criticism at the regents selection process, characterizing it as a "buddy-buddy system" that depended on connections and campaign-

ing rather than merit assessments.

Critics of the regents selection process praise those regents it has produced. From the governor to the committee members to those consulting with the committee, all are careful to emphasize that they have no case against current or past regents themselves. What, then, is the problem?

Lani Kawamura, director of state planning in the Perpich administration and one of the testifiers before the public interest committee, summed up part of it when she sought to put the governor's comments in context. "Education has always been a high priority, a big spending item; Minnesotans care about their schools and care about the assurance of quality in their schools. There is no doubt that no matter which side of the political aisle you sit on, 'quality in education' and 'Minnesota' are synonymous."

Among all of Minnesota's public post-secondary schools, said Kawamura, the University is the flagship; it is unique, and its uniqueness requires special stewardship. As always but especially now, the value of the tax dollars must be maximized. Kawamura said there is great enthusiasm for President Keller's "Commitment to Focus," and demand for strong leadership from the regents as the University navigates some very challenging waters. The Perpich administration questions the ability of the current selection process to produce the kind of leaders needed by the University in the competitive climate that currently prevails.

The regents selection process that has become the focus of such discussion is indeed political but is also, ironically, one of the simplest in use among the 50 states. All twelve regents are elected by the legislature on staggered terms. Each of Minnesota's eight congressional districts must be represented on the board; the remaining four regents represent the state at large. Traditionally one of the at-large regents is from labor and another represents minorities. In 1976 the regents selection laws were amended to require that one at-large regent be a student at the University or a recent graduate. Interim vacancies in either district or at-large seats are filled by the governor.

Congressional district regent candidates are voted on and recommended by district political party caucuses. Candidates can and, more and more, do put their own names forward when a vacancy occurs either for district or for at-large seats on the board. Both district and at-large candidates are recommended to a "joint convention" of the house and senate by their education committees. Seldom has the joint convention of the legislature refused to elect a recommended nominee.

The present debate over Minnesota's regents selection process is by no means the first in thirteen decades of University history. In 1851 the territorial

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legislature assigned the task of electing regents to itself. In 1860, two years after statehood, the state legislature shifted responsibility for choosing regents to the governor, with the advice and consent of the state senate. Between 1860 and 1928, the legislature modified membership provisions seven times, including a 1923 statute requiring that one regent be a resident of each congressional district, but in every case gubernatorial appointment was retained as the selection method.

Many of the modifications had to do with the role of state officers on the board. In 1928 a suit was brought to reassert the corporate, legal independence of the regents and the University; the state supreme court declared gubernatorial appointment of regents unconstitutional and returned selection power to the legislature. On paper the regents regained the corporate independence originally granted them in 1851.

The 1928 decision did not, however, put a stop to embarrassing disputes over the selection of regents. The depression era of the 1930s saw legislative deadlocks that resulted in "interim" gubernatorial appointments of the entire board, some of which were later confirmed by the legislature and some overturned. Once again the state supreme court had to rule, and it not only reaffirmed its 1928 decision but also threw out long-standing provisions under which the governor and two other state officers had been ex-officio members of the board. During the 1937 session, the legislature was once again deadlocked and the governor once again used his interim appointment powers, this time to replace conservatives with liberals on the board. By 1939 all of the regents were finally approved by the legislature.

Since 1939 the legislature has elected regents, as provided by the state constitution and supreme court decisions, without serious incident. In 1976 congressional district representation was reaffirmed in amendments to the statutes. Also passed in 1976 was a statute requiring one at-large regent to be a University student or recent graduate.

The prevailing pattern of regents selection processes among most states is that there are multiple methods of appointments, according to Pennsylvania State University Associate Provost Kenneth Mortimer. Mortimer directed the 1982 study by the AGB-sponsored National Commission on College and University Trustee Selection. According to Mortimer, Minnesota's system of legislative regent selection is shared by only one other state in the nation. In the Big Ten, methods range from direct popular election of regents in Michigan to gubernatorial appointment without legislative review in Iowa. In Indiana three of the university trustees are selected in an alumni election, and the other six are appointed by the governor. Illinois has an alumni screening committee

for trustee nominations; screened candidates are reviewed by the respective state central committees of their party and then submitted for direct popular election. In recent years controversy has arisen because the central committee has substituted political favorites for those recommended by the alumni screening committee.

According to Mortimer, most states use a combination of elections, appointments, and/or automatic incumbency attached to state offices such as commissioner of agriculture. A few states, such as Illinois, California, and North Dakota, have in place screening and recruitment processes of varying degrees of political independence.

The difficulty of comparing Minnesota's governance process with that of other states is compounded by the complex diversity of postsecondary education governance systems in various states. A hundred years ago, Minnesota chose to combine its land-grant and state universities and is still similar in that respect to Nebraska, Wisconsin, Illinois, and others. But Minnesota has no "super-board" to govern all four of its postsecondary state education systems as do states such as New York and Wisconsin. Still other states, such as Michigan, never combined land-grant and state universities, and they are governed separately. And a century after Minnesota established its land-grant agricultural college as part of its existing state university, its 5 state teachers' colleges and 2 state colleges were rechartered in a new state university system separate from the University of Minnesota, as are Minnesota's 18 community colleges and 33 vocational-technical institutes.

Minnesota is unique in one respect that bears on regent selection: it is the only state with a combined land-grant and state university where both the major land-grant and the major state campus are located in the primary urban center, making rural constituencies especially aware of their need for representation on the Board of Regents.

With such a wide variety of regents selection systems and institutional profiles among different states and among postsecondary systems within Minnesota itself, the public interest study group recruited by the MAA has faced a difficult task formulating recommendations for Minnesota's specific needs. To meet the challenge, the committee included three former regents; three legislators or former legislators; a former governor; seven members with past or present affiliations with the University as faculty, administrators, or alumni; and several members with backgrounds in business or non-University educational administration. Study group chair Sherburne served as a University regent for twelve years—the last six as chair—and subsequently joined the board of AGB in Washing-

How many corporations would prosper if their directors were chosen by stockholders in the manner in which regents are chosen for the University?

ton, D.C., where he served first on the AGB's public policy committee and eventually became chair of the AGB board.

The study group has heard from a diverse group of interested parties including McGuiggan: Emil Erikson and David Laird, former chair and former deputy executive director, respectively, of the Minnesota Higher Education Coordinating Board (HECB); Dean Stuthman, a University agronomy professor and chair of the University's faculty consultative committee; John Finnegan, senior vice president and editor of the *St. Paul Pioneer Press Dispatch*; Minnesota state planning director Kawamura; and Robert Latz, former regent.

From the beginning, study group members expressed strong sentiment that the regents selection process had become too political, primarily in the area of candidates nominating and campaigning for themselves.

Because legislators' votes are needed for both nomination and election in Minnesota, the potential has always existed for open campaigning by those interested—campaigning that many believe is unseemly and inappropriate for a voluntary office of such importance and prestige.

Differing ideas on what improvements could or should be made in the selection process were made by the three witnesses at the December 18 committee meeting. Former HECB chair Erikson defended geographical representation, recalling how the Board of Regents has at times been dominated by Twin Cities appointees at the expense of outstate areas, and pointing out that the University has property and programs throughout the state. A screening process, he said, might be a good idea, but how closely should it reflect existing district representation? Limiting terms of service also had merit but carried the price of losing some continuity and experience on the board.

Faculty consultative committee member Stuthman, speaking as an individual and not for his committee, offered the analogy of the University as a "\$700 million corporation of which every citizen of Minnesota is a shareholder." Using that analogy, Stuthman asked how many corporations would prosper if their directors were chosen by stockholders in the manner in which regents are chosen for the University. Stuthman recommended that the nomination process be made "more systematic," and be designed to produce men and women with broad interests individually as well as collectively. He did not recommend direct faculty participation, but rather suggested consultation with the faculty on potential candidates.

The most detailed proposal came from Finnegan, who read it to the committee December 18 and printed it as an editorial in the December 22 Sunday *St. Paul Pioneer Press Dispatch*. The proposal called for a fifteen-member nominations committee "composed of outstanding citizens representing a broad

cross section of the state." Five would be appointed by the governor, five by the Speaker of the House and five by the chair of the committee on committees of the state senate. "The committee would select two or three candidates for vacancies in each district and for the at-large posts after careful screening and offer them to the legislature for final action," said Finnegan's proposal.

In statements and discussion January 7, Latz and McGuiggan defended the status quo. Latz said he had won his regent's seat and lost it through the political process, and that was perfectly appropriate. Successful candidates, he suggested, required self-assertion and stamina whether they nominated themselves or were sought out by others. Critics of the present system, said Latz, are either legislators who didn't get their favorites elected, former regents unhappy at not being reelected, or University administrators interested in a "rubber stamp" board. Isn't it difficult for the current system of "self-nomination" to identify and encourage good minority candidates? A good candidate, minority or otherwise, is one who has already gotten his or her feet wet in politics, said Latz.

Regents chair McGuiggan asked the study group what present regents were targets of their inquiry. He suggested that any change in the regents selection process would be a disaster for rural Minnesota. The study group itself, he pointed out, includes twenty people from the Twin Cities and only three from outstate. Any changes in selection guidelines should apply to all public higher education boards in Minnesota.

Both McGuiggan and Latz questioned whether the Minnesota Alumni Association, which they described as narrowly based, was the proper organization to sponsor a regents selection review effort.

Discussions among the study group members at the close of each meeting have focused on whether Minnesota ought to have an advisory regents candidate recruiting group of some sort and what form that group might take. Some have suggested that the way bar associations help recruit and screen judicial candidates might be a good analogy. Others have suggested that if the selection system "isn't broke, don't fix it." Still others said that to avoid a crisis later, now is the time to improve the system, while it is still performing satisfactorily.

Clearly, the crusade for excellence that has been sweeping business, industry, and education in recent years has reached the boardroom of the regents of the University. Whether it belongs there is still an open question; the next few months should tell whether those who advocate change can muster enough of the broad support they perceive is out there to implement it.

Mathews Hollinshead is associate director of alumni/development communications.