December 12, 2017

The Honorable Lori Swanson
Minnesota Attorney General
102 State Capitol
75 Rev. Dr. Martin Luther King Jr. Boulevard
St. Paul, MN 55155

Re: Request for a Written Opinion

Dear Attorney General Lori Swanson:

Pursuant to Minn. Const. art. V, § 3, which provides that the Governor "may require the opinion in writing of the principal officer in each of the executive departments upon any subject" relating to her duties, the Governor requires a written opinion from the Attorney General on the following.

1. Article V, section 5 of the Minnesota Constitution provides, in relevant part, "The last elected presiding officer of the senate shall become lieutenant governor in case a vacancy occurs in that office."

Is it your opinion that upon a vacancy in the office of Lieutenant Governor, the President of the Minnesota Senate automatically and immediately becomes the Lieutenant Governor by operation of the Constitution?

2. Article IV, section 5 of the Minnesota Constitution provides,

    No senator or representative shall hold any other office under the authority of the United States or the state of Minnesota, except that of postmaster or of notary public. If elected or appointed to another office, a legislator may resign from the legislature by tendering his resignation to the governor.

Is it your opinion that if the President of the Senate becomes the Lieutenant Governor, she automatically and immediately forfeits her Senate seat by operation of the Constitution?

Thank you in advance for your assistance.

With best regards,

Kimberly Slay Holmes
General Counsel to Governor Mark Dayton

cc: Al Gilbert, Solicitor General