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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 526

02/13/2013 Authored by Lesch
The bill was read for the first time and referred to the Committee on Elections
02/25/2013 Adoption of Report: Pass as Amended and Read Second Time

1.1 A bill for an act
1.2 relating to elections; enacting the Uniform Faithful Presidential Electors Act;
1.3 making conforming changes; amending Minnesota Statutes 2012, sections
1.4 204B.07, subdivision 2; 208.02; 208.03; 208.06; 209.01, subdivision 2;
1.5 proposing coding for new law in Minnesota Statutes, chapter 208; repealing
1.6 Minnesota Statutes 2012, sections 208.07; 208.08.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2012, section 204B.07, subdivision 2, is amended to read:

1.9 Subd. 2. Petitions for presidential electors and alternates. This subdivision
1.10 does not apply to candidates for presidential elector or alternate nominated by major
1.11 political parties. Major party candidates for presidential elector or alternate are certified
1.12 under section 208.03. Other presidential electors or alternates are nominated by petition
1.13 pursuant to this section. On petitions nominating presidential electors or alternates, the
1.14 names of the candidates for president and vice-president shall be added to the political
1.15 party or political principle stated on the petition. One petition may be filed to nominate a
1.16 slate of presidential electors equal in number to the number of electors to which the state
1.17 is entitled and an alternate for each elector nominee.

1.18 Sec. 2. Minnesota Statutes 2012, section 208.02, is amended to read:

1.19 208.02 ELECTION OF PRESIDENTIAL ELECTORS AND ALTERNATES.
1.20 Presidential electors and alternates shall be chosen at the state general election held
1.21 in the year preceding the expiration of the term of the president of the United States.

2.1 Sec. 3. Minnesota Statutes 2012, section 208.03, is amended to read:

2.2 **208.03 NOMINATION OF PRESIDENTIAL ELECTORS AND**  
 2.3 **ALTERNATES.**

2.4 Presidential electors and alternates for the major political parties of this state shall be  
 2.5 nominated by delegate conventions called and held under the supervision of the respective  
 2.6 state central committees of the parties of this state. At least 71 days before the general  
 2.7 election day the chair of the major political party shall certify to the secretary of state  
 2.8 the names of the persons nominated as presidential electors, the names of ~~eight~~ persons  
 2.9 nominated as alternate presidential electors, and the names of the party candidates for  
 2.10 president and vice president. The chair shall also certify that the party candidates for  
 2.11 president and vice president have no affidavit on file as a candidate for any office in  
 2.12 this state at the ensuing general election.

2.13 Sec. 4. Minnesota Statutes 2012, section 208.06, is amended to read:

2.14 **208.06 ELECTORS AND ALTERNATES TO MEET AT STATE CAPITOL;**  
 2.15 **FILLING OF VACANCIES.**

2.16 The presidential electors and alternate presidential electors, before 12:00 M. on the  
 2.17 day before that fixed by Congress for the electors to vote for president and vice president  
 2.18 of the United States, shall notify the governor that they are at the State Capitol and ready  
 2.19 at the proper time to fulfill their duties as electors. The governor shall deliver to the  
 2.20 electors present a certificate of the names of all the electors. ~~If any elector named therein~~  
 2.21 ~~fails to appear before 9:00 a.m. on the day, and at the place, fixed for voting for president~~  
 2.22 ~~and vice president of the United States, an alternate, chosen from among the alternates by~~  
 2.23 ~~lot, shall be appointed to act for that elector. If more than eight alternates are necessary,~~  
 2.24 ~~the electors present shall, in the presence of the governor, immediately elect by ballot a~~  
 2.25 ~~person to fill the vacancy. If more than the number of persons required have the highest~~  
 2.26 ~~and an equal number of votes, the governor, in the presence of the electors attending, shall~~  
 2.27 ~~decide by lot which of those persons shall be elected~~ The electors shall meet at 12:00 p.m.  
 2.28 in the executive chamber of the State Capitol and shall perform all the duties imposed  
 2.29 upon them as electors by the Constitution and laws of the United States and this state  
 2.30 in the manner provided in section 208.46.

2.31 Sec. 5. **[208.40] SHORT TITLE.**

2.32 Sections 208.40 to 208.48 may be cited as the "Uniform Faithful Presidential  
 2.33 Electors Act."

3.1 Sec. 6. **[208.41] DEFINITIONS.**

3.2 (a) The definitions in this section apply to sections 208.40 to 208.48.

3.3 (b) "Cast" means accepted by the secretary of state in accordance with section  
3.4 208.46, paragraph (b).

3.5 (c) "Elector" means an individual selected as a presidential elector under this chapter.

3.6 (d) "President" means the president of the United States.

3.7 (e) "Unaffiliated presidential candidate" means a candidate for president who  
3.8 qualifies for the general election ballot in this state by means other than nomination by a  
3.9 political party.

3.10 (f) "Vice president" means the vice president of the United States.

3.11 Sec. 7. **[208.42] DESIGNATION OF STATE'S ELECTORS.**

3.12 For each elector position in this state, a political party contesting the position, or  
3.13 an unaffiliated presidential candidate, shall submit to the secretary of state the names of  
3.14 two qualified individuals. One of the individuals must be designated "elector nominee"  
3.15 and the other "alternate elector nominee."

3.16 Except as otherwise provided in sections 208.44 to 208.47, this state's electors are  
3.17 the winning elector nominees under the laws of this state.

3.18 Sec. 8. **[208.43] PLEDGE.**

3.19 Each elector nominee and alternate elector nominee of a political party shall execute  
3.20 the following pledge: "If selected for the position of elector, I agree to serve and to mark  
3.21 my ballots for president and vice president for the nominees for those offices of the party  
3.22 that nominated me." Each elector nominee and alternate elector nominee of an unaffiliated  
3.23 presidential candidate shall execute the following pledge: "If selected for the position  
3.24 of elector as a nominee of an unaffiliated presidential candidate, I agree to serve and  
3.25 to mark my ballots for that candidate and for that candidate's vice-presidential running  
3.26 mate." The executed pledges must accompany the submission of the corresponding names  
3.27 to the secretary of state.

3.28 Sec. 9. **[208.44] CERTIFICATION OF ELECTORS.**

3.29 In submitting this state's certificate of ascertainment as required by United States  
3.30 Code, title 3, section 6, the governor shall certify this state's electors and state in the  
3.31 certificate that:

4.1 (1) the electors will serve as electors unless a vacancy occurs in the office of elector  
4.2 before the end of the meeting at which elector votes are cast, in which case a substitute  
4.3 elector will fill the vacancy; and

4.4 (2) if a substitute elector is appointed to fill a vacancy, the governor will submit an  
4.5 amended certificate of ascertainment stating the names on the final list of this state's  
4.6 electors.

4.7 Sec. 10. **[208.45] PRESIDING OFFICER; ELECTOR VACANCY.**

4.8 (a) The secretary of state shall preside at the meeting of electors described in section  
4.9 208.06.

4.10 (b) The position of an elector not present to vote is vacant. The secretary of state  
4.11 shall appoint an individual as a substitute elector to fill a vacancy as follows:

4.12 (1) if the alternate elector is present to vote, by appointing the alternate elector  
4.13 for the vacant position;

4.14 (2) if the alternate elector for the vacant position is not present to vote, by appointing  
4.15 an elector chosen by lot from among the alternate electors present to vote who were  
4.16 nominated by the same political party or unaffiliated presidential candidate;

4.17 (3) if the number of alternate electors present to vote is insufficient to fill any  
4.18 vacant position pursuant to clauses (1) and (2), by appointing any immediately available  
4.19 individual who is qualified to serve as an elector and chosen through nomination by a  
4.20 plurality vote of the remaining electors, including nomination and vote by a single elector  
4.21 if only one remains;

4.22 (4) if there is a tie between at least two nominees for substitute elector in a vote  
4.23 conducted under clause (3), by appointing an elector chosen by lot from among those  
4.24 nominees; or

4.25 (5) if all elector positions are vacant and cannot be filled pursuant to clauses (1) to  
4.26 (4), by appointing a single presidential elector, with remaining vacant positions to be filled  
4.27 under clause (3) and, if necessary, clause (4).

4.28 (c) To qualify as a substitute elector under paragraph (b), an individual who has not  
4.29 executed the pledge required under section 208.43 shall execute the following pledge: "I  
4.30 agree to serve and to mark my ballots for president and vice president consistent with the  
4.31 pledge of the individual to whose elector position I have succeeded."

4.32 Sec. 11. **[208.46] ELECTOR VOTING.**

4.33 (a) At the time designated for elector voting in section 208.06, and after all vacant  
4.34 positions have been filled under section 208.45, the secretary of state shall provide each

5.1 elector with a presidential and a vice-presidential ballot. The elector shall mark the  
5.2 elector's presidential and vice-presidential ballots with the elector's votes for the offices  
5.3 of president and vice president, respectively, along with the elector's signature and the  
5.4 elector's legibly printed name.

5.5 (b) Except as otherwise provided by law of this state other than this chapter, each  
5.6 elector shall present both completed ballots to the secretary of state, who shall examine  
5.7 the ballots and accept as cast all ballots of electors whose votes are consistent with their  
5.8 pledges executed under section 208.43 or 208.45, paragraph (c). Except as otherwise  
5.9 provided by law of this state other than this chapter, the secretary of state may not accept  
5.10 and may not count either an elector's presidential or vice-presidential ballot if the elector  
5.11 has not marked both ballots or has marked a ballot in violation of the elector's pledge.

5.12 (c) An elector who refuses to present a ballot, presents an unmarked ballot, or  
5.13 presents a ballot marked in violation of the elector's pledge executed under section 208.43  
5.14 or 208.45, paragraph (c), vacates the office of elector, creating a vacant position to be  
5.15 filled under section 208.45.

5.16 (d) The secretary of state shall distribute ballots to and collect ballots from a  
5.17 substitute elector and repeat the process under this section of examining ballots, declaring  
5.18 and filling vacant positions as required, and recording appropriately completed ballots from  
5.19 the substituted electors, until all of this state's electoral votes have been cast and recorded.

5.20 **Sec. 12. [208.47] ELECTOR REPLACEMENT; ASSOCIATED CERTIFICATES.**

5.21 (a) After the vote of this state's electors is completed, if the final list of electors  
5.22 differs from any list that the governor previously included on a certificate of ascertainment  
5.23 prepared and transmitted under United States Code, title 3, section 6, the secretary of state  
5.24 immediately shall prepare an amended certificate of ascertainment and transmit it to  
5.25 the governor for the governor's signature.

5.26 (b) The governor immediately shall deliver the signed amended certificate of  
5.27 ascertainment to the secretary of state and a signed duplicate original of the amended  
5.28 certificate of ascertainment to all individuals entitled to receive this state's certificate of  
5.29 ascertainment, indicating that the amended certificate of ascertainment is to be substituted  
5.30 for the certificate of ascertainment previously submitted.

5.31 (c) The secretary of state shall prepare a certificate of vote. The electors on the final  
5.32 list shall sign the certificate. The secretary of state shall process and transmit the signed  
5.33 certificate with the amended certificate of ascertainment under United States Code, title  
5.34 3, sections 9, 10, and 11.

6.1 Sec. 13. **[208.48] UNIFORMITY OF APPLICATION AND CONSTRUCTION.**

6.2 In applying and construing sections 208.40 to 208.48, consideration must be given  
6.3 to the need to promote uniformity of the law with respect to their subject matter among  
6.4 states that enact the Uniform Faithful Presidential Electors Act or similar law.

6.5 Sec. 14. Minnesota Statutes 2012, section 209.01, subdivision 2, is amended to read:

6.6 Subd. 2. **Statewide office.** For purposes of this chapter, "statewide office" means the  
6.7 office of governor, lieutenant governor, attorney general, state auditor, secretary of state,  
6.8 chief justice or associate justice of the Supreme Court, judge of the Court of Appeals,  
6.9 United States senator, or presidential elector or alternate.

6.10 Sec. 15. **REPEALER.**

6.11 Minnesota Statutes 2012, sections 208.07; and 208.08, are repealed.

**208.07 CERTIFICATE OF ELECTORS.**

Immediately after the vacancies have been filled, the original electors and alternates present shall certify to the governor the names of the persons elected to complete their number, and the governor shall at once cause written notice to be given to each person elected to fill a vacancy. The persons so chosen shall be presidential electors and shall meet and act with the other electors.

**208.08 ELECTORS TO MEET AT STATE CAPITOL.**

The original, alternate, and substituted presidential electors, at 12:00 M., shall meet in the executive chamber at the State Capitol and shall perform all the duties imposed upon them as electors by the Constitution and laws of the United States and this state.

Each elector, as a condition of having been chosen under the name of the party of a presidential and a vice presidential candidate, is obligated to vote for those candidates. The elector shall speak aloud or affirm in a nonverbal manner the name of the candidate for president and for vice president for whom the elector is voting and then confirm that vote by written public ballot.

If an elector fails to cast a ballot for the presidential or vice presidential candidate of the party under whose name the elector was chosen, the elector's vote or abstention is invalidated and an alternate presidential elector, chosen by lot from among the alternates, shall cast a ballot in the name of the elector for the presidential and vice presidential candidate of the party under whose name the elector was chosen. The invalidation of an elector's vote or abstention on the ballot for president or vice president does not apply if the presidential candidate under whose party's name the elector was chosen has without condition released the elector or has died or become mentally disabled.