

DRAFT
FOR DISCUSSION ONLY

PRESIDENTIAL ELECTORS ACT

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

Draft for March 2009 Committee Meeting
VERSION 1

WITHOUT PREFATORY NOTE OR COMMENTS

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March 12, 2009

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1 independent candidates for the two offices, are the state’s presidential electors for purposes of
2 casting this state’s electoral votes for that election at the meeting convened for that purpose.²

3 **SECTION 4. NOTIFICATION OF ELECTOR REPLACEMENT POSSIBILITY.**

4 In submitting this state’s certificate of ascertainment as required by 3 U.S.C. Section 6, the
5 Governor shall note the possibility that vacancies in the office of elector may occur before
6 conclusion of the meeting at which elector voting is conducted, that state law provides for filling
7 vacancies , and that, if vacancies occur, the Governor will transmit an amended certificate of
8 ascertainment specifying the names of a complete set of the state’s electors, including the
9 replacement electors, who are entitled to cast the state’s electoral votes.

10 **SECTION 5. PRESIDING OFFICER AND FILLING VACANCIES AT**
11 **ELECTOR MEETING.**

12 (a) The [Secretary of State] shall preside at the meeting of electors. If any electors are
13 unable to be present, the positions of the absent electors are deemed to be vacant and with the
14 assistance of the [Secretary of State] the vacancies shall be filled at the meeting of electors in the
15 following manner:

16 (1) By a plurality vote of the remaining electors, including choice by the single
17 elector if only one remains.

18 (2) If no single substitute elector receives a plurality vote, but there is a tie among
19 two or more candidates each with the same plurality, by a coin flip or drawing of straws
20 conducted by the [Secretary of State].

² Again, adjustment will be necessary where some electors are chosen in districts. And further adjustment might be necessary for a state that provides for the possibility of unpledged slates of electors.

1 (3) If all elector positions are vacant, by designation of a single elector by the
2 [Secretary of State], with remaining vacancies filled under paragraph (1) and, if necessary,
3 paragraph (2).

4 (b) Except as provided in Section 6, electors shall cast their presidential and vice-
5 presidential votes respectively for the winning presidential candidate and for the winning vice-
6 presidential candidate. When a full set of electors has been assembled, the [Secretary of State]
7 shall poll them for their votes for President and Vice-President respectively, and shall record
8 their votes as cast for the winning presidential candidate and the winning vice-presidential
9 candidate respectively, thus fulfilling their obligations under this section.³

10 **SECTION 6. NOTIFICATION OF ELECTOR REPLACEMENTS.** After the vote
11 of the state's presidential electors is completed, if the final list of electors differs from any list
12 that the Governor has previously included on a certificate of ascertainment prepared and
13 transmitted pursuant to 3 U.S.C. Section 6, the [Secretary of State] shall immediately prepare a
14 substitute certificate of ascertainment containing the final list and transmit it to the Governor for
15 the Governor's signature. The Governor shall expeditiously deliver the signed substitute
16 certificate of ascertainment to the [Secretary of State] and to all state and local officials entitled
17 to receive this state's certificate of ascertainment, including the President of the United States
18 Senate and each of this state's electors on the final list, indicating that this certificate of
19 ascertainment is to be substituted for the certificate of ascertainment previously submitted. The
20 [Secretary of State] shall prepare for the electors on the substituted list a certificate of vote for
21 them to sign, handle, and transmit along with the substituted certificate of ascertainment pursuant
22 to 3 U.S.C. Sections 9, 10, and 11. If the association of the signed certificate of vote with the

³ Again, adjustment might be required to take account of the possibility of a winning slate of unpledged electors.

1 substituted certificate of ascertainment and their transmission cannot be accomplished before the
2 meeting of electors is adjourned, the electors shall entrust those tasks to the [Secretary of State],
3 who shall perform them as expeditiously as possible.

4 **SECTION 7. DEATH OF WINNING PRESIDENTIAL OR VICE-**
5 **PRESIDENTIAL CANDIDATES BEFORE ELECTOR MEETING.** If before the meeting
6 of electors, the winning presidential candidate dies, the political party that nominated the
7 winning slate of electors⁴ shall notify the [Secretary of State] that the winning vice-presidential
8 candidate is to be substituted as its candidate for President, and it shall further inform the
9 [Secretary of State] of a substitute candidate it has selected for Vice-President. If before the
10 meeting of electors, the winning vice-presidential candidate dies, the political party shall notify
11 the [Secretary of State] of a substitute candidate it has selected for Vice-President. If before the
12 meeting of electors both the winning presidential candidate and the winning vice-presidential
13 candidate die, the political party shall notify the [Secretary of State] of substitute candidates it
14 has selected for both offices. In the case of any such substitution or substitutions, electors shall
15 cast their votes for the substituted candidate or candidates at the meeting. After any required
16 substitution have been made, and a full set of electors has been assembled, the [Secretary of
17 State] shall poll the electors for their votes for any offices for which substitution has taken place
18 and shall record their votes as cast for the substituted candidate or candidates, thus fulfilling their
19 obligations under this section.

20 **SECTION 8. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In
21 applying and construing this uniform act, consideration must be given to the need to promote
22 uniformity of the law with respect to its subject matter among states that enact it.

⁴ Again adjustment will be required for states where some electors are chosen in district-wide elections. No adjustment would presumably be required for a victorious unpledged slate.

1 **SECTION 9. REPEALS.** The following are repealed: _____.

2 **SECTION 10. EFFECTIVE DATE.** This [act] takes effect: