



STATE OF MINNESOTA
Office of Minnesota Secretary of State
Steve Simon

The Honorable Lisa Demuth
Minnesota House of Representatives
Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

The Honorable Harry Niska
Minnesota House of Representatives
Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

January 13, 2025

Dear Representatives Demuth and Niska:

Thank you for your January 13, 2025 letter outlining your position regarding the organization and convening of the Minnesota House of Representatives. As I said previously, I am open to considering all legal authority on this matter so that we can resolve this dispute appropriately. I also want to reiterate that I am not acting on behalf of any “political ally” in this matter. Any ruling that I make while temporarily presiding over the House will be based solely on the Minnesota Constitution and Minnesota statutes.

I have carefully reviewed the arguments and legal authority that you cited in your letter. Like you, I agree that the Secretary of State has the authority to make a determination of quorum when the House convenes. I respectfully disagree, however, as to your conclusion that a quorum is based on the current membership of the House, rather than its total membership.

I understand your position to be that there is a distinction between the phrase “majority of [the House]” as used in the quorum provision of Article IV, section 13 and “majority of all the members elected to each house” as used in Article IV, section 22. You indicate the former means the current membership of the House and the latter phrase means the total potential membership of the House. As support for that position, you point to the debates and proceedings of the Republican delegates during the Minnesota Constitutional Convention.

Any interpretation of the Constitution must start with the text and structure of the Constitution, rather than the records of the Constitutional Convention. *Schroeder v. Simon*, 985 N.W.2d 529, 536 (Minn. 2023). Because of the complicated process that went into drafting the Constitution, courts have cautioned against relying on the convention debates

in assessing the drafters' intent. *See State v. Lessley*, 779 N.W.2d 825, 840 (Minn. 2010) (explaining that the debates “are of limited value”). For all the reasons I stated in my previous letter, the plain language of the Constitution makes clear a quorum is a majority of the total membership of the House.¹

I want to note that my conclusion on this topic is not without precedent. While this situation is unusual, it has happened before. The Minnesota House was last tied in 1979. The memoir of the Independent Republican leader, Rod Searle (who would lead the House that year pursuant to a power-sharing agreement) recounts the process that went into organizing the House during that time. *See* ROD SEARLE, MINNESOTA STANDOFF: THE POLITICS OF DEADLOCK (1990). Representative Searle stated the parties agreed that then-Secretary of State Joan Grove would preside over the House, would consider motions, and would hold the speaker's gavel until a speaker was elected. *Id.*, p. 62. Secretary Grove ultimately presided over the House for a few days; House records indicate that a quorum call was taken each of those days before any business was transacted.

In addition, during the 1979 session, a member of the Democratic-Farmer-Labor Party (DFL) became ill and was unable to attend session, giving the Independent Republicans a temporary 67-66 advantage. Representative Searle recounts that during this time, members of his caucus suggested that he push for an election of an Independent Republican Speaker without agreement by the temporarily outnumbered DFL members. *Id.*, p. 70. Representative Searle rejected this idea, noting that it might cause the DFL members to walk out and deprive the House of the 68 members necessary for a quorum. *Id.* Minnesota may be facing the situation that then-Representative Searle contemplated when advising his caucus in 1979.

Finally, in our meeting this morning, you asked whether I would entertain an appeal from the members present regarding my determination of a quorum. Minnesota law prohibits such an action. The Supreme Court has made clear that absent a quorum, all the members present can do is adjourn. *See State ex rel. Palmer v. Perpich*, 289 Minn. 149, 151, 182 N.W.2d 182, 183 (1971); *Mason's Legislative Manual*, § 500 (requiring a quorum to transact business of any kind). Furthermore, if appeals of quorum rulings were permitted,

¹ By way of example, Article IV, section 23 refers to both the authority of two-thirds of the “house” to override a veto of an act and “two-thirds of the members elected to each house” to override a line-item veto. It would be an unreasonable result for these phrases to be interpreted differently because they would result in different standards for overriding a veto (which has never been the historical practice). *See* [Making Laws: Review by the Governor \(explaining standard for a veto override\)](#). At least one other state high court has concluded these phrases are interchangeable. *See Opinion of the Justs.*, 251 A.2d 827, 827 (Del. 1969). Minnesota courts often look to the rulings of states' high courts to inform their decisions. *See, e.g., Alby v. BNSF Ry. Co.*, 934 N.W.2d 831, 835 n. 2 (Minn. 2019).

they would render that requirement meaningless. A small group of members could enter the House, overrule the presiding officer, and purport to conduct business when clearly prohibited under law.

The fact that the Constitution and state law prohibit an appeal in the House does not mean that you and your members are without recourse. The Supreme Court has jurisdiction to decide whether the House is constitutionally organized and determine whether the presiding officer of that body acted appropriately. *Perpich*, 182 N.W.2d at 184–85. I urge you to consider submitting this matter to the courts for resolution. A prompt judicial resolution would provide the most transparent outcome and reassure all Minnesotans that the House and any presiding officer is operating in accordance with the law.

Regardless of our disagreements, I remain committed to presiding over a dignified process tomorrow so that members can enjoy this proud moment with their family members and friends. I remain open to discussing this matter with you at any point before we convene at noon if you would like.

Respectfully,

A handwritten signature in black ink that reads "Steve Simon". The signature is written in a cursive, flowing style.

Steve Simon

Secretary of State