



AN ACT IMPLEMENTING A UNIFORM FAITHFUL PRESIDENTIAL ELECTORS ACT; REVISING PROVISIONS FOR THE NOMINATION AND MEETING OF PRESIDENTIAL ELECTORS; REQUIRING EACH NOMINEE FOR PRESIDENTIAL ELECTOR TO EXECUTE A PLEDGE TO VOTE FOR THE PRESIDENTIAL CANDIDATE OF THE PARTY THAT NOMINATED THE ELECTOR; REQUIRING CERTIFICATION OF THE ELECTORS BY THE GOVERNOR; REVISING PROVISIONS TO FILL A VACANT ELECTOR POSITION; REQUIRING THE SECRETARY OF STATE TO CERTIFY THE FINAL VOTE; AND REPEALING SECTIONS 13-25-104, 13-25-105, AND 13-25-107, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [Sections 1 through 8] may be cited as the "Uniform Faithful Presidential Electors Act".

Section 2. Definitions. As used in [sections 1 through 8], the following definitions apply:

- (1) "Cast" means accepted by the secretary of state in accordance with [section 7(3)].
- (2) "Elector" means an individual selected as presidential elector under this part.
- (3) "President" means the president of the United States.
- (4) "Unaffiliated presidential candidate" means a candidate for president of the United States who qualifies for the general election ballot in this state under 13-10-504.
- (5) "Vice president" means vice president of the United States.

Section 3. Designation of electors. Pursuant to 13-25-101, each political party qualified under 13-10-601 or unaffiliated presidential candidate shall submit to the secretary of state the names of two qualified individuals for each elector position in this state. One of the individuals must be designated as the elector nominee and the other must be designated as the alternate elector nominee. Unless otherwise provided by [sections 5 through 8], Montana's electors are the winning electors under the laws of this state.

Section 4. Pledge. Each elector nominated by a political party under 13-25-101 or by an unaffiliated presidential candidate shall execute the following pledge: "If selected for the position of elector, I agree to serve and to mark my ballots for president and vice president for the nominees of the political party that nominated me." The executed pledges must accompany the submission of the corresponding names to the secretary of state under 13-25-101(1).

Section 5. Certification of electors. When submitting the certificate of ascertainment as required by 3 U.S.C. 6, the governor shall certify the state's electors to the archivist of the United States. The certificate must state that:

(1) the electors will serve as electors unless a vacancy occurs in the office of elector before the end of the meeting required under [section 7(1)], in which case a substitute elector will fill the vacancy as provided for in [section 6]; and

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

Section 6. Presiding officer -- elector vacancy. (1) The secretary of state shall preside at the meeting of the electors described in [section 7(1)].

(2) The position of an elector not present to vote is considered vacant, and the secretary of state shall appoint an individual as a substitute elector as follows:

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

(b) if the alternate elector is not present to vote, by appointing an elector chosen by lot from among the alternate electors present to vote who are nominated by the same political party or unaffiliated presidential candidate;

(c) if the number of alternate electors present to vote is insufficient to fill a vacant position pursuant to subsection (2)(a) or (2)(b), by appointing any immediately available individual who is qualified to serve as an elector and chosen through nomination by and plurality vote of the remaining electors, including nomination and vote by a single elector if only one remains;

(d) if there is a tie between two nominees for substitute elector in a vote conducted under subsection

(2)(c), by appointing an elector chosen by lot from among those nominees; or

(e) if all elector positions are vacant and cannot be filled pursuant to subsections (2)(a) through (2)(d), by appointing a single presidential elector, with remaining vacant positions to be filled pursuant to subsection (2)(c) and, if necessary, subsection (2)(d).

(3) To qualify as a substitute elector under subsection (2), an individual who has not executed the pledge required by [section 4] shall execute the following pledge: "I agree to serve and to mark my ballots for president and vice president consistent with the pledge of the individual to whose elector position I have succeeded."

Section 7. Elector voting. (1) The electors shall meet in Helena at 2 p.m. on the first Monday after the second Wednesday in December following their election.

(2) After all vacant positions have been filled pursuant to [section 6], the secretary of state shall provide each elector with a presidential and a vice presidential ballot. The elector shall mark the elector's presidential and vice presidential ballots with the elector's vote for the office of president and vice president, respectively, along with the elector's signature and the elector's legibly printed name.

(3) Unless otherwise provided by law, each elector shall present both completed ballots to the secretary of state, who shall examine the ballots and accept as cast all ballots of electors whose votes are consistent with their pledges executed under [section 4 or 6(3)]. Except as otherwise provided by law, the secretary of state may not accept and may not count either an elector's presidential or vice presidential ballot if the elector has not marked both ballots or has marked a ballot in violation of the elector's pledge.

(4) An elector who refuses to present a ballot, presents an unmarked ballot, or presents a ballot in violation of the elector's pledge executed under [section 4 or 6(3)] vacates the office of elector, creating a vacant position to be filled under [section 6].

(5) The secretary of state shall distribute ballots to and collect ballots from a substitute elector and repeat the process specified in this section until all of the electoral votes have been cast and recorded.

Section 8. Amended certificate of ascertainment -- certificate of final vote. (1) After the vote of the electors is completed, if the final list of electors differs from the list the governor previously included on a certificate of ascertainment prepared and transmitted pursuant to [section 5], the secretary of state shall immediately prepare an amended certificate of ascertainment and transmit it to the governor for the governor's

signature.

(2) The governor shall immediately sign and transmit to the secretary of state the signed amended certificate of ascertainment and a signed duplicate original of the amended certificate of ascertainment that indicates that the amended certificate of ascertainment must be substituted for the certificate of ascertainment previously submitted.

(3) The secretary of state shall prepare a certificate of vote. The electors on the final list shall sign the certificate. The secretary of state shall process and transmit the signed certificate with the amended certificate of ascertainment as provided under 3 U.S.C. 9 through 11.

Section 9. Uniformity of application and construction. In applying and construing [sections 1 through 9], consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

Section 10. Repealer. The following sections of the Montana Code Annotated are repealed:

- 13-25-104. Meeting and voting of electors.
- 13-25-105. Lists of persons voted for.
- 13-25-107. Vacancy in office of elector.

Section 11. Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 13, chapter 25, part 1, and the provisions of Title 13, chapter 25, part 1, apply to [sections 1 through 8].

- END -

I hereby certify that the within bill,
SB 0194, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2011.

Speaker of the House

Signed this _____ day
of _____, 2011.

SENATE BILL NO. 194

INTRODUCED BY J. BRENDEN, C. WILLIAMS

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