

1 SENATE BILL NO. 194

2 INTRODUCED BY J. BRENDEN

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

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

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

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17 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 8], the following definitions
18 apply:

19 (1) "Cast" means accepted by the secretary of state in accordance with [section 7(3)].

20 (2) "Elector" means an individual selected as presidential elector under this part.

21 (3) "President" means the president of the United States.

22 (4) "Unaffiliated presidential candidate" means a candidate for president of the United States who
23 qualifies for the general election ballot in this state under 13-10-504.

24 (5) "Vice president" means vice president of the United States.

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

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

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

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

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

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

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

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

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

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

29 (d) if there is a tie between two nominees for substitute elector in a vote conducted under subsection
30 (2)(c), by appointing an elector chosen by lot from among those nominees; or

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

4 (3) To qualify as a substitute elector under subsection (2), an individual who has not executed the pledge
 5 required by [section 4] shall execute the following pledge: "I agree to serve and to mark my ballots for president
 6 and vice president consistent with the pledge of the individual to whose elector position I have succeeded."
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8 **NEW SECTION. Section 7. Elector voting.** (1) The electors shall meet in Helena at 2 p.m. on the first
 9 Monday after the second Wednesday in December following their election.

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

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

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

22 (5) The secretary of state shall distribute ballots to and collect ballots from a substitute elector and repeat
 23 the process specified in this section until all of the electoral votes have been cast and recorded.
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25 **NEW SECTION. Section 8. Amended certificate of ascertainment -- certificate of final vote.** (1)
 26 After the vote of the electors is completed, if the final list of electors differs from the list the governor previously
 27 included on a certificate of ascertainment prepared and transmitted pursuant to [section 5], the secretary of state
 28 shall immediately prepare an amended certificate of ascertainment and transmit it to the governor for the
 29 governor's signature.

30 (2) The governor shall immediately sign and transmit to the secretary of state the signed amended

1 certificate of ascertainment and a signed duplicate original of the amended certificate of ascertainment that
2 indicates that the amended certificate of ascertainment must be substituted for the certificate of ascertainment
3 previously submitted.

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

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

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12 **NEW SECTION. Section 10. Repealer.** The following sections of the Montana Code Annotated are
13 repealed:

14 13-25-104. Meeting and voting of electors.

15 13-25-105. Lists of persons voted for.

16 13-25-107. Vacancy in office of elector.

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

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