Uniform Faithful Presidential Electors Act

The purpose of the Act is to provide an effective remedy in the event a state presidential elector fails to vote in accordance with the voters of his or her state.

Submitted as:
Montana
SB 194
Status: Became law in April 2011.

Section 1. [Short title.] This Act may be cited as the “Uniform Faithful Presidential Electors Act.”

Section 2. [Definitions.]
As used in this Act the following definitions apply:
(1) "Cast" means accepted by the secretary of state in accordance with [Insert citation.]
(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 [Insert citation.]
(5) "Vice president" means vice president of the United States.

Section 3. [Designation of electors.]
Pursuant to [Insert citation], each political party qualified under [Insert citation] 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 [Insert citation] 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 [Insert citation.]

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 17(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 [Insert location] 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.

242 The Council of State Governments
(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.] Insert repealer clause.

Section 11. [Codification instruction]. Insert codification clause.