

**UNIFORM FAITHFUL PRESIDENTIAL
ELECTORS ACT***

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

at its

ANNUAL CONFERENCE
MEETING IN ITS ONE-HUNDRED-AND-NINETEENTH YEAR
CHICAGO, ILLINOIS
JULY 9 - JULY 16, 2010

WITHOUT PREFATORY NOTE OR COMMENTS

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By

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

July 21, 2010

UNIFORM FAITHFUL PRESIDENTIAL ELECTORS ACT

SECTION 1. SHORT TITLE. This [act] may be cited as the Uniform Faithful Presidential Electors Act.

SECTION 2. DEFINITIONS. In this [act]:

(1) “Cast” means an elector has marked a ballot in accordance with the elector’s pledge under Sections 4 or 6(c), presented the ballot in accordance with Section 7(b) and that the [Secretary of State] has accepted that the ballot is in accordance with Section 7(b).

(2) “Elector” means an individual selected as a presidential elector under [applicable state statute] and this [act].

(3) “President” means President of the United States.

(4) [“Unaffiliated presidential candidate” means a candidate for President who qualifies for the general election ballot in this state by means other than nomination by a political party.]

[(5)] “Vice President” means Vice President of the United States.

SECTION 3. DESIGNATION OF STATE’S ELECTORS. For each elector position in this state, a political party contesting the position [, or an unaffiliated presidential candidate,] shall submit to the [Secretary of State] the names of two qualified individuals. One of the individuals must be designated “elector nominee” and the other “alternate elector nominee”. Except as otherwise provided in Sections 5, 6, 7, and 8, this state’s electors are the winning elector nominees under the laws of this state.

SECTION 4. PLEDGE. Each elector nominee and alternate elector nominee of a political party 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 for those

offices of the party that nominated me. [If selected for the position of elector as a nominee of an unaffiliated presidential candidate, I agree to serve and to mark my ballots for that candidate and for that candidate's vice-presidential running mate.]". The executed pledges must accompany the submission of the corresponding names to the [Secretary of State].

SECTION 5. CERTIFICATION OF ELECTORS. In submitting this state's certificate of ascertainment as required by 3 U.S.C. Section 6, the [Governor] shall certify this state's electors and state in the certificate that:

(1) the electors will serve as electors unless a vacancy occurs in the office of elector before the end of the meeting at which elector votes are cast, in which case a substitute elector will fill the vacancy; 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 this state's electors.

SECTION 6. PRESIDING OFFICER; ELECTOR VACANCY.

(a) The [Secretary of State] shall preside at the meeting of electors described in Section 7.

(b) The position of an elector not present to vote is vacant. The [Secretary of State] shall appoint an individual as a substitute elector to fill a vacancy as follows:

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

(2) 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 were nominated by the same political party [or unaffiliated presidential candidate];

(3) if the number of alternate electors present to vote is insufficient to fill any vacant position pursuant to paragraphs (1) and (2), by appointing as a substitute elector 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;

(4) if there is a tie among two or more nominees for substitute elector in a vote conducted under paragraph (3), by appointing an elector chosen by lot from among those nominees; or

(5) if all elector positions are vacant and cannot be filled pursuant to paragraphs (1) through (4), by appointing a single presidential elector, with remaining vacant positions to be filled under paragraph (3) and, if necessary, paragraph (4).

(c) To qualify as a substitute elector under subsection (b), an individual who has not executed the pledge required under Section 4 must 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.”.

Legislative Note: *A number of states name the Secretary of State to preside at the meeting of electors, but states might opt for a different official. See, e.g., TEX. ELEC. CODE ANN. § 192.006. For that reason, Section 6 brackets the designation of the Secretary of State as the presiding officer.*

As with Sections 3 and 4, adjustment of this Section would be required for any state where unpledged electors might be permissible.

SECTION 7. ELECTOR VOTING.

(a) At the time designated for elector voting and after all vacant positions have been filled under 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 votes for the offices of President and Vice President respectively, along with the elector’s signature and the elector’s legibly printed name.

(b) Except as otherwise provided in other state law, each elector shall present both completed ballots to the [Secretary of State], who shall examine them and accept as cast all ballots of electors whose votes are consistent with their pledges executed under Section 4 or 6(c). Except as otherwise permitted under other state law, the [Secretary of State] may not accept as cast 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.

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

(d) The [Secretary of State] shall distribute ballots to and collect ballots from a substitute elector and repeat the process under this section of examining ballots, declaring and filling vacant positions as required, and recording appropriately completed ballots from the substituted electors, until all of this state's electoral votes have been cast and recorded.

SECTION 8. ELECTOR REPLACEMENT; ASSOCIATED CERTIFICATES.

(a) After the vote of this state's electors is completed, if the final list of electors differs from any list that the [Governor] previously included on a certificate of ascertainment prepared and transmitted under 3 U.S.C. Section 6, the [Secretary of State] immediately shall prepare an amended certificate of ascertainment and transmit it to the [Governor] for the [Governor's] signature.

(b) The [Governor] immediately shall deliver the signed amended certificate of ascertainment to the [Secretary of State] and a signed duplicate original of the amended certificate of ascertainment to all individuals entitled to receive this state's certificate of ascertainment, indicating that the amended certificate of ascertainment is to be substituted for the

certificate of ascertainment previously submitted.

(c) 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 under 3 U.S.C. Sections 9, 10, and 11.

SECTION 9. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 10. REPEALS. The following are repealed:

(1)

(2)

(3)

SECTION 11. EFFECTIVE DATE. This [act] takes effect....