



## 2026 South Dakota Legislature

# Senate Bill 101

SENATE STATE AFFAIRS ENGROSSED

Introduced by: **Senator Hulse**

1 **An Act to amend provisions pertaining to the duties of presidential electors.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 12-24-1 be AMENDED:**

4 ~~12-24-1. Each elector of President and vice president of the United States shall,~~  
 5 ~~before the hour of eleven o'clock in the morning of the day fixed by the act of Congress~~  
 6 ~~to elect a President and vice president, give notice to the Governor that he is at the seat~~  
 7 ~~of government and ready at the proper time to perform the duties of an elector; and the~~  
 8 ~~Governor shall forthwith deliver to the electors present a certificate of all the names of the~~  
 9 ~~electors.~~

10 Before eleven a.m. central time on the day designated by Congress for the election  
 11 of the president and vice president of the United States, each presidential elector shall  
 12 notify the Governor that the elector is:

- 13 (1) At the seat of government; and  
 14 (2) Ready to perform the duties of a presidential elector.

15 Upon receipt of the notice, the Governor shall deliver to the electors present a  
 16 certificate listing the names of the presidential electors.

17 **Section 2. That § 12-24-2 be AMENDED:**

18 12-24-2. If a vacancy occurs before the day of the meeting of the electors, the  
 19 state chairperson of the political party that nominated the elector must provide a list of  
 20 up to three alternative electors who are available to be present at the meeting of the  
 21 electors, from which the remaining electors must consider and vote for one alternative  
 22 elector to fill the vacant elector position.

23 ~~If any an elector named in the Governor's certificate fails to appear before nine~~  
 24 ~~o'clock in the morning of the day of election of President and vice president as aforesaid,~~  
 25 ~~the electors there present shall immediately proceed to elect by ballot, in the presence of~~

1 ~~the Governor, a person to fill such~~ a.m. central time on the day designated by Congress  
 2 for the election of the president and vice president of the United States, the electors  
 3 present must immediately elect, by ballot, an individual to fill the vacancy. If more than  
 4 ~~one person voted for to fill such vacancy shall have the highest and~~ individual receives an  
 5 equal number of votes, the Governor, in the presence of the electors attending, shall  
 6 ~~decide by lot which of such persons shall be elected~~ must, in the presence of the remaining  
 7 electors, name one of the individuals receiving an equal number of votes to fill the  
 8 vacancy. If the Governor is not present or is one of the remaining electors, the secretary  
 9 of state must name one of the individuals receiving an equal number of votes to fill the  
 10 vacancy.

11 If two electors named in the Governor's certificate fail to appear before nine a.m.  
 12 central time on the day designated by Congress for the election of the president and vice  
 13 president of the United States, the Governor, or in the absence of the Governor, the  
 14 secretary of state, must immediately appoint an elector. Upon appointment, the electors  
 15 must immediately elect, by ballot, an individual to fill the remaining vacancy, in  
 16 accordance with this section.

17 If no electors named in the Governor's certificate appear before nine a.m. central  
 18 time on the day designated by Congress for the election of the president and vice president  
 19 of the United States, the Governor, or in the absence of the Governor, the secretary of  
 20 state, must immediately appoint an elector. Upon appointment, the elector must  
 21 immediately appoint a second elector. Upon appointment of the second elector, the  
 22 electors must immediately elect, by ballot, an individual to fill the remaining vacancy, in  
 23 accordance with this section.

24 **Section 3. That § 12-24-3 be AMENDED:**

25 **12-24-3.** Immediately after ~~such the~~ choice of elector is made, the name of the  
 26 ~~person so chosen shall forthwith~~ individual chosen to fill the vacancy must be certified to  
 27 the Governor by the electors making ~~such the choice; and the.~~ The Governor shall cause  
 28 notice to be immediately given, in writing, to the ~~elector~~ individual chosen to fill ~~such the~~  
 29 vacancy; and the person so chosen shall be an elector and. If the Governor is not present,  
 30 the secretary of state shall notify the individual chosen to fill the vacancy.

31 The individual chosen to fill the vacancy shall meet the other electors at the same  
 32 time and place, and then and there discharge all and singular set forth in § 12-24-1 to  
 33 discharge the duties enjoined upon him, the individual as an elector, by the Constitution  
 34 and laws of the United States and of this state.

1 **Section 4. That § 12-24-4 be AMENDED:**

2 ~~12-24-4. The electors of President and vice president shall, at twelve noon on the~~  
3 ~~day which is or may be directed by the Congress of the United States, meet at the seat of~~  
4 ~~government of this state and then and there perform the duties enjoined upon them by~~  
5 ~~the Constitution and laws of the United States.~~

6 At twelve p.m. central time on the day designated by Congress for the election of  
7 the president and vice president of the United States, the presidential electors shall meet  
8 at the seat of government of this state and perform the duties enjoined upon them by the  
9 Constitution and laws of the United States.

10 Except as provided in section 8 of this Act, each presidential elector shall vote for  
11 the candidates for the office of president and vice president of the United States whose  
12 state of electors received the highest number of votes at the state's general election.

13 **Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 12:**

14 Each presidential elector nominated pursuant to § 12-5-21 shall execute the  
15 following pledge upon nomination: "If selected for the position of presidential elector, I  
16 agree to serve and to mark my ballots for the candidates nominated for the offices of  
17 president and vice president of the United States, by the party that nominated me to the  
18 office of presidential elector." The executed pledges must accompany the submission of  
19 the corresponding names to the secretary of state.

20 Each presidential elector of an unaffiliated or independent presidential candidate  
21 shall execute the following pledge upon nomination: "If selected for the position of  
22 presidential elector for an unaffiliated or independent presidential candidate, I agree to  
23 serve and to mark my ballots for that candidate and for that candidate's vice-presidential  
24 running mate." The executed pledges must accompany the submission of the  
25 corresponding names to the secretary of state.

26 **Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 12:**

27 At least six days before the day designated by Congress for the election of the  
28 president and vice president of the United States, the Governor shall issue a certificate of  
29 ascertainment of appointment. The Governor shall certify the names of the individuals  
30 chosen at the general election to be electors and that the individuals chosen are to serve  
31 as electors unless a vacancy occurs, pursuant to section 6 of this Act.

1           If a vacancy occurs in the office of elector after the Governor issues the certificate  
2 of ascertainment, a replacement elector must be selected pursuant to § 12-24-2. Upon  
3 the selection of a replacement elector, the Governor must immediately create and submit  
4 a new certificate of ascertainment stating the names of the final list of the state's electors  
5 in accordance with 3 U.S.C. § 5 (January 1, 2026). If the Governor is not present, the  
6 secretary of state must immediately create and submit the new certificate of  
7 ascertainment.

8           Any final certificate of vote must be signed by each elector on the final list and  
9 must be immediately transmitted with the final certificate of ascertainment pursuant to 3  
10 U.S.C. §§ 9 to 11, inclusive (January 1, 2026).

11 **Section 7. That a NEW SECTION be added to a NEW CHAPTER in title 12:**

12           The office of presidential elector becomes vacant if the elector:

13           (1) Dies;

14           (2) Resigns;

15           (3) Fails to qualify, as provided by law;

16           (4) Fails to appear at the designated time and place of the meeting;

17           (5) Refuses to vote;

18           (6) Attempts to cast a blank ballot; or

19           (7) Except as provided for in section 8 of this Act, attempts to vote for any candidate  
20 other than the candidate whose slate of electors received the highest number of  
21 votes in the state's general election.

22           If a presidential elector casts a ballot that results in the office of elector becoming  
23 vacant, the ballot may not be accepted or counted. An elector may resign the office of  
24 presidential elector by submitting a letter of resignation to the secretary of state.

25 **Section 8. That a NEW SECTION be added to a NEW CHAPTER in title 12:**

26           If, between the date of the general election and the date designated by Congress  
27 for the election of the president and vice president of the United States, the candidate for  
28 the president or vice president whose slate of electors received the highest number of  
29 votes in the state's general election withdraws, dies, or, because of a permanent disability,  
30 becomes unable to discharge the powers and duties of the office to which the candidate  
31 is elected, each presidential elector from this state must vote for the replacement  
32 candidate nominated according to the bylaws of the party to which the previous candidate  
33 belonged.

1 **Section 9.** Pursuant to § 2-16-9, the code counsel of the Legislative Research Council shall  
2 transfer chapter 12-24 as follows: § 12-24-1 to § 12-24A-3; § 12-24-2 to § 12-24A-5; 12-  
3 24-3 to § 12-24A-6; § 12-24-4 to § 12-24A-7; § 12-24-5 to § 12-24A-9.

4 **Section 10.** Pursuant to § 2-16-9, the Code Commission and code counsel of the Legislative  
5 Research Council shall correct and integrate all cross references from chapter 12-24 that have  
6 been transferred pursuant to this Act.