



2026 South Dakota Legislature  
**Senate Bill 101**  
**ENROLLED**

AN ACT

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

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

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

**12-24-1.** Before eleven a.m. central time on the day designated by Congress for the election of the president and vice president of the United States, each presidential elector shall notify the Governor that the elector is:

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

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

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

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

If an elector named in the Governor's certificate fails to appear before nine a.m. central time on the day designated by Congress for the election of the president and vice president of the United States, the electors present must immediately elect, by ballot, an individual to fill the vacancy. If more than one individual receives an equal number of votes, the Governor must, in the presence of the remaining electors, name one of the individuals receiving an equal number of votes to fill the vacancy. If the Governor is not present or is one of the remaining electors, the secretary of state must name one of the individuals receiving an equal number of votes to fill the vacancy.

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

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

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

**12-24-3.** Immediately after the choice of elector is made, the name of the individual chosen to fill the vacancy must be certified to the Governor by the electors making the choice. The Governor shall cause notice to be immediately given, in writing, to the individual chosen to fill the vacancy. If the Governor is not present, the secretary of state shall notify the individual chosen to fill the vacancy.

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

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

**12-24-4.** At twelve p.m. central time on the day designated by Congress for the election of the president and vice president of the United States, the presidential electors shall meet at the seat of government of this state and perform the duties enjoined upon them by the Constitution and laws of the United States.

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

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

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

Each presidential elector of an unaffiliated or independent presidential candidate shall execute the following pledge upon nomination: "If selected for the position of presidential elector for an unaffiliated or independent 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 6. That a NEW SECTION be added to a NEW CHAPTER in title 12:**

At least six days before the day designated by Congress for the election of the president and vice president of the United States, the Governor shall issue a certificate of ascertainment of appointment. The Governor shall certify the names of the individuals chosen at the general election to be electors and that the individuals chosen are to serve as electors unless a vacancy occurs, pursuant to section 7 of this Act.

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

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

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

The office of presidential elector becomes vacant if the elector:

- (1) Dies;
- (2) Resigns;
- (3) Fails to qualify, as provided by law;

- (4) Fails to appear at the designated time and place of the meeting;
- (5) Refuses to vote;
- (6) Attempts to cast a blank ballot; or
- (7) Except as provided for in section 8 of this Act, attempts to vote for any candidate other than the candidate whose slate of electors received the highest number of votes in the state's general election.

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

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

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

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

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

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

I certify that the attached Act originated in the:  
Senate as Bill No. 101

Received at this Executive Office this \_\_\_\_ day of \_\_\_\_\_, 2026 at \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of the Senate

By \_\_\_\_\_ for the Governor

\_\_\_\_\_  
President of the Senate

The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2026

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Governor

**STATE OF SOUTH DAKOTA,**

ss.

Office of the Secretary of State

\_\_\_\_\_  
Speaker of the House

Attest:

Filed \_\_\_\_\_, 2026 at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of State

Senate Bill No. 101  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

By \_\_\_\_\_  
Asst. Secretary of State