

Why Oregon Needs a Faithless Elector Law

Testimony by David A. Weinberg to the Oregon Senate Interim Committee on Rules and Executive Appointments, January 13, 2026

Introduction

Chair Jama, Vice-Chair Starr, and esteemed Members of this Committee, thank you for the opportunity to testify for you today.

For the record, my name is Dr. David Weinberg, and I am testifying in my capacity as a Policy Strategist for Protect Democracy United.

I plan to focus on four topics. First, I will summarize the main elements of the Uniform Law Commission's Uniform Faithful Presidential Electors Act.

Second, I will go section by section through the Oregon bill language under consideration today.

Third, I will recommend some areas for amendment.

And fourth, I will note some ways in which the recommended approach is versatile, resilient, and broadly supported.

The Model Law

So first, what does the ULC's model law do?

Its main provision is that any presidential elector who faithlessly fills out their electoral vote ballot automatically loses their post and must be replaced. Other parts of the Act just reinforce this core element.

For instance, most states designate a presiding officer for when their electors convene. In Oregon, that's already the Secretary of State. The UFPEA instructs this presiding officer to review each electoral vote ballot after the electors fill them out, and it prohibits this presiding officer from accepting any of them that are filled out

faithlessly.

This ensures that a faithless electoral vote ballot doesn't get counted by the state on its certificate of electoral vote that gets transmitted to Congress.

Additionally, the UFPEA makes sure that states have clear policies for filling any vacancies among the electors, and that any substitutes who fill these vacancies are held to the same pledges as the originals.

Finally, the UFPEA gives clear guidelines for ensuring that the replacement of any faithless electors does not result in any unintentional delays or errors in the certificates that the state must submit to Congress.

The Oregon Legislation

Ok, now to go section by section through the Oregon bill language.

Section One of the Oregon bill language mainly just requires political parties to demonstrate as part of their paperwork nominating electors that those individuals have taken the required oath.

Section Two is where the main operative provisions of this bill are located.

It specifies more clearly that presidential electors must cast their electoral vote ballots in accordance with their oath and that failure to do so vacates their position automatically.

It requires that the Secretary of State, as the presiding officer at that convening, review each completed electoral vote ballot and may not accept or count any that are filled out unfaithfully.

It makes clear that any vacancy among the electors during their convening must be filled immediately under the state's existing procedure, which is a voice vote by those presidential electors still faithfully serving. Likewise, any such replacement electors must take the same oath as the original electors before getting to cast an electoral vote ballot.

Section Two also makes clear that if the winning candidate for president or vice president dies or withdraws before elector balloting day, then the pledge taken by presidential electors doesn't bind them to the deceased or withdrawn individual but instead is transferred to supporting the winning party's successor candidate. The ULC identified this as a possible add-on to its model act, which both California and Indiana have wisely included.

Lastly, Section Two of the Oregon bill language ensures that all of these reforms don't result in any technical errors in the state's submission of paperwork to the federal government, lest that provide Congress with any pretense to reject Oregon's intended votes in the electoral college.

Then, the final substantive provision of this bill is Section 3, which simply makes clear that the state shall not reimburse the mileage expenses for any presidential electors who failed to cast a faithful electoral vote.

It is worth flagging that we would like to see a few changes to the bill language to ensure that the legislation functions as intended. I will quickly go over the most important changes that will be needed. We are working with both Sen. Jama and Sen. Starr and their staff on the language updates to ensure the operability of this bill, and hope that we will shortly have an amendment for you all to review.

A Recommended Amendment

The most important change that I would recommend would be to amend Section 1 subsection 2(c). Currently, this subsection requires that any presidential electors nominated before election day be members of a political party and that on elector balloting day any new presidential electors substituted in for faithless electors not be members of any political party at all. We would like to see this section changed to require presidential electors nominated by a political party to be registered as members of that party - and to require that presidential electors nominated by an independent candidate for president to not be registered members of any party.

If the language is not updated, it could result in Oregon being unable to replace any faithless electors with members of the same political party who could be expected to vote in accordance with the state's certified election outcome as intended.

Next, Section 2 subsection 6 diverges from the ULC model law in its discussion of "the winning candidate" for president and vice president rather than the candidate of the party that nominated the electors. That may sound more straightforward, but without the more deliberate phrasing, Oregon's existing membership in the National Popular Vote Interstate Compact could cause these sections of the bill not to function as intended.

Lastly, Section 2, subsections 4 and 8 would benefit from slight tweaks to ensure that any amended certificate of ascertainment is transmitted to the relevant recipients in time to meet federal deadlines.

A Consensus Approach

Viewed as a whole, this legislation is intended to give Oregon a system to guard against faithless electors that is versatile, resilient, and broadly supported.

Most notably, the federal judiciary has already affirmed the Constitutionality of this sort of law.

In 2020, the U.S. Supreme Court ruled unanimously that states are empowered to pass laws that require their presidential electors to act faithfully, including laws that replace any unfaithful electors so that no electoral votes would get squandered.

Second, this legislation should do nothing to interfere with a state's choices regarding the National Popular Vote Interstate Compact.

The bill language under consideration can be tweaked so that it still functions properly if the compact eventually goes into effect. And it also would do nothing to lock Oregon into that compact if the state were to decide some day to leave it.

Third, this kind of law has broad bipartisan and institutional support, as well as a decade-plus track record in the West. The first state to adopt the UFPEA was Montana in 2011, followed by Nevada in 2013. Other western states with this law include Washington, California, and Hawaii, and laws akin to it are also in place in Utah, Colorado, and Arizona.

Montana and Nevada both passed it with near unanimous bipartisan support in both chambers. The 24 states with laws for replacing faithless electors are split roughly evenly between those where the lead sponsor was a Republican and those where it was a Democrat.

We worked extensively with Secretary Read's office to ensure we got the initial proposed language correct, and are happy to report that Secretary Read is supportive of this concept and is following the legislation and any necessary amendments closely.

And of course, Oregon would be passing legislation based on a model law from a bipartisan group of legal experts at the Uniform Law Commission. That model statute has also been approved by the American Bar Association, through its House of Delegates.

Conclusion

At the end of the day, this legislation is not about partisan advantage. It's about principle.

It would reinforce the integrity of Oregon's election system, uphold the will of all Oregon voters, align Oregon with best practices, and protect the volunteers who serve as Oregon's presidential electors.

Thank you for your consideration. I look forward to any questions you may have.

For more information, contact:

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ABOUT US

Protect Democracy United is a nonpartisan, nonprofit group working to prevent American democracy from declining into a more authoritarian form of government.