

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-0726.01 Bob Lackner x4350

SENATE BILL 19-042

SENATE SPONSORSHIP

Foote,

HOUSE SPONSORSHIP

Sirota and Arndt,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING ADOPTION OF AN AGREEMENT AMONG THE STATES TO**
102 **ELECT THE PRESIDENT OF THE UNITED STATES BY NATIONAL**
103 **POPULAR VOTE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill enacts and enters into with all other states joining therein the agreement among the states to elect the president of the United States by national popular vote (agreement). Among other provisions, the agreement:

! Permits any state of the United States and the District of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Columbia to become members of the agreement by enacting the agreement;

- ! Requires each member state to conduct a statewide popular election for president and vice president of the United States;
- ! Prior to the time set for the meeting and voting of presidential electors, requires the chief election official of each member state to determine the number of votes cast for each presidential slate in a statewide popular election and to designate the presidential slate with the largest national popular vote total as the national popular vote winner;
- ! Requires the presidential elector certifying official of each member state to certify the appointment in that official's own state of the elector slate nominated in that state in association with the national popular vote winner. At least 6 days before the day fixed by law for the meeting and voting by the presidential electors, requires each member state to make a final determination of the number of popular votes cast in the state for each presidential slate and to communicate an official statement of the determination within 24 hours to the chief election official of each other member state. Requires the chief election official of each member state to treat as conclusive an official statement containing the number of popular votes in a state for each presidential slate made by the day established by federal law for making a state's final determination conclusive as to the counting of electoral votes by congress.
- ! Specifies that the agreement governs the appointment of presidential electors in each member state in any year in which the agreement is in effect on July 20 in states cumulatively possessing a majority of the electoral votes;
- ! Permits a state's withdrawal from the agreement, except in limited circumstances;
- ! Specifies that the agreement will terminate if the electoral college is abolished; and
- ! Provides that the invalidity of any of the agreement's provisions do not affect the remaining provisions.

The bill specifies that when the agreement becomes effective, it supersedes any conflicting provisions of Colorado law.

When the agreement becomes effective and governs the appointment of presidential electors, each presidential elector is required to vote for the presidential candidate and, by separate ballot, vice-presidential candidate nominated by the political party or political

organization that nominated the presidential elector.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 40 to article
3 60 of title 24 as follows:

4 **PART 40**
5 **AGREEMENT AMONG THE STATES TO ELECT THE**
6 **PRESIDENT BY NATIONAL POPULAR VOTE**

7 **24-60-4001. Short title.** THE SHORT TITLE OF THIS PART 40 IS THE
8 "AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY
9 NATIONAL POPULAR VOTE".

10 **24-60-4002. Execution of agreement.** THE AGREEMENT AMONG
11 THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE IS
12 HEREBY ENACTED INTO LAW AND ENTERED INTO WITH ALL JURISDICTIONS
13 LEGALLY JOINING THEREIN, IN THE FORM SUBSTANTIALLY AS FOLLOWS:

14 **ARTICLE I -- MEMBERSHIP**

15 ANY STATE OF THE UNITED STATES AND THE DISTRICT OF
16 COLUMBIA MAY BECOME A MEMBER OF THIS AGREEMENT BY ENACTING
17 THIS AGREEMENT.

18 **ARTICLE II -- RIGHT OF THE PEOPLE IN MEMBER**
19 **STATES TO VOTE FOR PRESIDENT AND VICE PRESIDENT**

20 EACH MEMBER STATE SHALL CONDUCT A STATEWIDE POPULAR
21 ELECTION FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES.

22 **ARTICLE III -- MANNER OF APPOINTING**
23 **PRESIDENTIAL ELECTORS IN MEMBER STATES**

24 PRIOR TO THE TIME SET BY LAW FOR THE MEETING AND VOTING BY
25 THE PRESIDENTIAL ELECTORS, THE CHIEF ELECTION OFFICIAL OF EACH

1 MEMBER STATE SHALL DETERMINE THE NUMBER OF VOTES FOR EACH
2 PRESIDENTIAL SLATE IN EACH STATE OF THE UNITED STATES AND IN THE
3 DISTRICT OF COLUMBIA IN WHICH VOTES HAVE BEEN CAST IN A STATEWIDE
4 POPULAR ELECTION AND SHALL ADD SUCH VOTES TOGETHER TO PRODUCE
5 A "NATIONAL POPULAR VOTE TOTAL" FOR EACH PRESIDENTIAL SLATE.

6 THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL
7 DESIGNATE THE PRESIDENTIAL SLATE WITH THE LARGEST NATIONAL
8 POPULAR VOTE TOTAL AS THE "NATIONAL POPULAR VOTE WINNER."

9 THE PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL OF EACH
10 MEMBER STATE SHALL CERTIFY THE APPOINTMENT IN THAT OFFICIAL'S
11 OWN STATE OF THE ELECTOR SLATE NOMINATED IN THAT STATE IN
12 ASSOCIATION WITH THE NATIONAL POPULAR VOTE WINNER.

13 AT LEAST SIX DAYS BEFORE THE DAY FIXED BY LAW FOR THE
14 MEETING AND VOTING BY THE PRESIDENTIAL ELECTORS, EACH MEMBER
15 STATE SHALL MAKE A FINAL DETERMINATION OF THE NUMBER OF POPULAR
16 VOTES CAST IN THE STATE FOR EACH PRESIDENTIAL SLATE AND SHALL
17 COMMUNICATE AN OFFICIAL STATEMENT OF SUCH DETERMINATION WITHIN
18 24 HOURS TO THE CHIEF ELECTION OFFICIAL OF EACH OTHER MEMBER
19 STATE.

20 THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL
21 TREAT AS CONCLUSIVE AN OFFICIAL STATEMENT CONTAINING THE NUMBER
22 OF POPULAR VOTES IN A STATE FOR EACH PRESIDENTIAL SLATE MADE BY
23 THE DAY ESTABLISHED BY FEDERAL LAW FOR MAKING A STATE'S FINAL
24 DETERMINATION CONCLUSIVE AS TO THE COUNTING OF ELECTORAL VOTES
25 BY CONGRESS.

26 IN EVENT OF A TIE FOR THE NATIONAL POPULAR VOTE WINNER, THE
27 PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL OF EACH MEMBER STATE

1 SHALL CERTIFY THE APPOINTMENT OF THE ELECTOR SLATE NOMINATED IN
2 ASSOCIATION WITH THE PRESIDENTIAL SLATE RECEIVING THE LARGEST
3 NUMBER OF POPULAR VOTES WITHIN THAT OFFICIAL'S OWN STATE.

4 IF, FOR ANY REASON, THE NUMBER OF PRESIDENTIAL ELECTORS
5 NOMINATED IN A MEMBER STATE IN ASSOCIATION WITH THE NATIONAL
6 POPULAR VOTE WINNER IS LESS THAN OR GREATER THAN THAT STATE'S
7 NUMBER OF ELECTORAL VOTES, THE PRESIDENTIAL CANDIDATE ON THE
8 PRESIDENTIAL SLATE THAT HAS BEEN DESIGNATED AS THE NATIONAL
9 POPULAR VOTE WINNER SHALL HAVE THE POWER TO NOMINATE THE
10 PRESIDENTIAL ELECTORS FOR THAT STATE AND THAT STATE'S
11 PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL SHALL CERTIFY THE
12 APPOINTMENT OF SUCH NOMINEES.

13 THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL
14 IMMEDIATELY RELEASE TO THE PUBLIC ALL VOTE COUNTS OR STATEMENTS
15 OF VOTES AS THEY ARE DETERMINED OR OBTAINED.

16 THIS ARTICLE SHALL GOVERN THE APPOINTMENT OF PRESIDENTIAL
17 ELECTORS IN EACH MEMBER STATE IN ANY YEAR IN WHICH THIS
18 AGREEMENT IS, ON JULY 20, IN EFFECT IN STATES CUMULATIVELY
19 POSSESSING A MAJORITY OF THE ELECTORAL VOTES.

20 ARTICLE IV -- OTHER PROVISIONS

21 THIS AGREEMENT SHALL TAKE EFFECT WHEN STATES
22 CUMULATIVELY POSSESSING A MAJORITY OF THE ELECTORAL VOTES HAVE
23 ENACTED THIS AGREEMENT IN SUBSTANTIALLY THE SAME FORM AND THE
24 ENACTMENTS BY SUCH STATES HAVE TAKEN EFFECT IN EACH STATE.

25 ANY MEMBER STATE MAY WITHDRAW FROM THIS AGREEMENT,
26 EXCEPT THAT A WITHDRAWAL OCCURRING SIX MONTHS OR LESS BEFORE
27 THE END OF A PRESIDENT'S TERM SHALL NOT BECOME EFFECTIVE UNTIL A

1 PRESIDENT OR VICE PRESIDENT SHALL HAVE BEEN QUALIFIED TO SERVE
2 THE NEXT TERM.

3 THE CHIEF EXECUTIVE OF EACH MEMBER STATE SHALL PROMPTLY
4 NOTIFY THE CHIEF EXECUTIVE OF ALL OTHER STATES OF WHEN THIS
5 AGREEMENT HAS BEEN ENACTED AND HAS TAKEN EFFECT IN THAT
6 OFFICIAL'S STATE, WHEN THE STATE HAS WITHDRAWN FROM THIS
7 AGREEMENT, AND WHEN THIS AGREEMENT TAKES EFFECT GENERALLY.

8 THIS AGREEMENT SHALL TERMINATE IF THE ELECTORAL COLLEGE
9 IS ABOLISHED.

10 IF ANY PROVISION OF THIS AGREEMENT IS HELD INVALID, THE
11 REMAINING PROVISIONS SHALL NOT BE AFFECTED.

12 ARTICLE V -- DEFINITIONS

13 FOR PURPOSES OF THIS AGREEMENT,

14 "CHIEF EXECUTIVE" SHALL MEAN THE GOVERNOR OF A STATE OF
15 THE UNITED STATES OR THE MAYOR OF THE DISTRICT OF COLUMBIA;

16 "ELECTOR SLATE" SHALL MEAN A SLATE OF CANDIDATES WHO HAVE
17 BEEN NOMINATED IN A STATE FOR THE POSITION OF PRESIDENTIAL
18 ELECTOR IN ASSOCIATION WITH A PRESIDENTIAL SLATE;

19 "CHIEF ELECTION OFFICIAL" SHALL MEAN THE STATE OFFICIAL OR
20 BODY THAT IS AUTHORIZED TO CERTIFY THE TOTAL NUMBER OF POPULAR
21 VOTES FOR EACH PRESIDENTIAL SLATE;

22 "PRESIDENTIAL ELECTOR" SHALL MEAN AN ELECTOR FOR
23 PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES;

24 "PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL" SHALL MEAN THE
25 STATE OFFICIAL OR BODY THAT IS AUTHORIZED TO CERTIFY THE
26 APPOINTMENT OF THE STATE'S PRESIDENTIAL ELECTORS;

27 "PRESIDENTIAL SLATE" SHALL MEAN A SLATE OF TWO PERSONS, THE

1 FIRST OF WHOM HAS BEEN NOMINATED AS A CANDIDATE FOR PRESIDENT
2 OF THE UNITED STATES AND THE SECOND OF WHOM HAS BEEN NOMINATED
3 AS A CANDIDATE FOR VICE PRESIDENT OF THE UNITED STATES, OR ANY
4 LEGAL SUCCESSORS TO SUCH PERSONS, REGARDLESS OF WHETHER BOTH
5 NAMES APPEAR ON THE BALLOT PRESENTED TO THE VOTER IN A
6 PARTICULAR STATE;

7 "STATE" SHALL MEAN A STATE OF THE UNITED STATES AND THE
8 DISTRICT OF COLUMBIA; AND

9 "STATEWIDE POPULAR ELECTION" SHALL MEAN A GENERAL
10 ELECTION IN WHICH VOTES ARE CAST FOR PRESIDENTIAL SLATES BY
11 INDIVIDUAL VOTERS AND COUNTED ON A STATEWIDE BASIS.

12 **24-60-4003. Reaffirmation of Colorado law.** WHEN THE
13 AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL
14 POPULAR VOTE BECOMES EFFECTIVE AS PROVIDED IN ARTICLE IV OF THE
15 AGREEMENT AND GOVERNS THE APPOINTMENT OF PRESIDENTIAL ELECTORS
16 AS PROVIDED IN ARTICLE III OF THE AGREEMENT, EACH PRESIDENTIAL
17 ELECTOR SHALL VOTE FOR THE PRESIDENTIAL CANDIDATE AND, BY
18 SEPARATE BALLOT, VICE-PRESIDENTIAL CANDIDATE NOMINATED BY THE
19 POLITICAL PARTY OR POLITICAL ORGANIZATION THAT NOMINATED THE
20 PRESIDENTIAL ELECTOR.

21 **24-60-4004. Conflicting provisions of law.** WHEN THE
22 AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL
23 POPULAR VOTE BECOMES EFFECTIVE AS PROVIDED IN ARTICLE IV OF THE
24 AGREEMENT AND GOVERNS THE APPOINTMENT OF PRESIDENTIAL ELECTORS
25 AS PROVIDED IN ARTICLE III OF THE AGREEMENT, THIS PART 40 SHALL
26 SUPERSEDE ANY CONFLICTING PROVISIONS OF COLORADO LAW.

27 **SECTION 2. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the
2 ninety-day period after final adjournment of the general assembly (August
3 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a
4 referendum petition is filed pursuant to section 1 (3) of article V of the
5 state constitution against this act or an item, section, or part of this act
6 within such period, then the act, item, section, or part will not take effect
7 unless approved by the people at the general election to be held in
8 November 2020 and, in such case, will take effect on the date of the
9 official declaration of the vote thereon by the governor.