

**First Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 07-0533.01 Bob Lackner

SENATE BILL 07-046

SENATE SPONSORSHIP

Gordon,

HOUSE SPONSORSHIP

Pommer,

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 necessarily reflect any amendments that may be subsequently adopted.)

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 Columbia to become members of the agreement by

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

SENATE
2nd Reading Unamended
January 22, 2007

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 officer 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 shall govern 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 for 6 months prior to the end of a president's term through the time when a president and vice president are qualified to serve the next term.

Specifies that the agreement will terminate if the electoral college is abolished.

Provides that the invalidity of any of the agreement's provisions shall not affect the remaining provisions.

Specifies that when the agreement becomes effective, it shall supersede any conflicting provisions of Colorado law.

Defines terms.

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

2 **SECTION 1.** Article 60 of title 24, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PART to read:

4 **PART 34**
5 **AGREEMENT AMONG THE STATES TO ELECT THE**
6 **PRESIDENT BY NATIONAL POPULAR VOTE**

7 **24-60-3401. Short title.** THIS PART 34 SHALL BE KNOWN AND
8 MAY BE CITED AS THE "AGREEMENT AMONG THE STATES TO ELECT THE
9 PRESIDENT BY NATIONAL POPULAR VOTE."

10 **24-60-3402. 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
26 MEMBER STATE SHALL DETERMINE THE NUMBER OF VOTES FOR EACH
27 PRESIDENTIAL SLATE IN EACH STATE OF THE UNITED STATES AND IN THE

1 DISTRICT OF COLUMBIA IN WHICH VOTES HAVE BEEN CAST IN A STATEWIDE
2 POPULAR ELECTION AND SHALL ADD SUCH VOTES TOGETHER TO PRODUCE
3 A "NATIONAL POPULAR VOTE TOTAL" FOR EACH PRESIDENTIAL SLATE.

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

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

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

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

24 IN EVENT OF A TIE FOR THE NATIONAL POPULAR VOTE WINNER, THE
25 PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL OF EACH MEMBER STATE
26 SHALL CERTIFY THE APPOINTMENT OF THE ELECTOR SLATE NOMINATED IN
27 ASSOCIATION WITH THE PRESIDENTIAL SLATE RECEIVING THE LARGEST

1 NUMBER OF POPULAR VOTES WITHIN THAT OFFICIAL'S OWN STATE.

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

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

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

18 ARTICLE IV -- OTHER PROVISIONS

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

23 ANY MEMBER STATE MAY WITHDRAW FROM THIS AGREEMENT,
24 EXCEPT THAT A WITHDRAWAL OCCURRING SIX MONTHS OR LESS BEFORE
25 THE END OF A PRESIDENT'S TERM SHALL NOT BECOME EFFECTIVE UNTIL A
26 PRESIDENT OR VICE PRESIDENT SHALL HAVE BEEN QUALIFIED TO SERVE
27 THE NEXT TERM.

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

6 THIS AGREEMENT SHALL TERMINATE IF THE ELECTORAL COLLEGE
7 IS ABOLISHED.

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

10 ARTICLE V -- DEFINITIONS

11 FOR PURPOSES OF THIS AGREEMENT,

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

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

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

20 "PRESIDENTIAL ELECTOR" SHALL MEAN AN ELECTOR FOR
21 PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES;

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

25 "PRESIDENTIAL SLATE" SHALL MEAN A SLATE OF TWO PERSONS, THE
26 FIRST OF WHOM HAS BEEN NOMINATED AS A CANDIDATE FOR PRESIDENT
27 OF THE UNITED STATES AND THE SECOND OF WHOM HAS BEEN NOMINATED

1 AS A CANDIDATE FOR VICE PRESIDENT OF THE UNITED STATES, OR ANY
2 LEGAL SUCCESSORS TO SUCH PERSONS, REGARDLESS OF WHETHER BOTH
3 NAMES APPEAR ON THE BALLOT PRESENTED TO THE VOTER IN A
4 PARTICULAR STATE;

5 "STATE" SHALL MEAN A STATE OF THE UNITED STATES AND THE
6 DISTRICT OF COLUMBIA; AND

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

10 **24-60-3403. Conflicting provisions of law.** WHEN THE
11 AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL
12 POPULAR VOTE BECOMES EFFECTIVE AS PROVIDED IN ARTICLE IV OF THE
13 AGREEMENT AND GOVERNS THE APPOINTMENT OF PRESIDENTIAL ELECTORS
14 AS PROVIDED IN ARTICLE III OF THE AGREEMENT, THIS PART 34 SHALL
15 SUPERSEDE ANY CONFLICTING PROVISIONS OF COLORADO LAW.

16 **SECTION 2. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.