

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

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 09-0838.01 Bob Lackner

**HOUSE BILL 09-1299**

---

**HOUSE SPONSORSHIP**

**Kerr A.**, Benefield, Carroll T., Casso, Court, Curry, Ferrandino, Frangas, Green, Hullinghorst, Kefalas, McCann, Middleton, Miklosi, Pommer, Rice, Scanlan, Schafer S., Solano, Todd, Vigil

**SENATE SPONSORSHIP**

**Romer**, Bacon, Groff, Veiga

---

**House Committees**  
Judiciary

**Senate 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:

!       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.*

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.



1 POPULAR ELECTION AND SHALL ADD SUCH VOTES TOGETHER TO PRODUCE  
2 A "NATIONAL POPULAR VOTE TOTAL" FOR EACH PRESIDENTIAL SLATE.

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

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

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

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

23 IN EVENT OF A TIE FOR THE NATIONAL POPULAR VOTE WINNER, THE  
24 PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL OF EACH MEMBER STATE  
25 SHALL CERTIFY THE APPOINTMENT OF THE ELECTOR SLATE NOMINATED IN  
26 ASSOCIATION WITH THE PRESIDENTIAL SLATE RECEIVING THE LARGEST  
27 NUMBER OF POPULAR VOTES WITHIN THAT OFFICIAL'S OWN STATE.

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

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

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

#### 17 ARTICLE IV -- OTHER PROVISIONS

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

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

27 THE CHIEF EXECUTIVE OF EACH MEMBER STATE SHALL PROMPTLY

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

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

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

9 ARTICLE V -- DEFINITIONS

10 FOR PURPOSES OF THIS AGREEMENT,

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

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

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

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

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

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

1 LEGAL SUCCESSORS TO SUCH PERSONS, REGARDLESS OF WHETHER BOTH  
2 NAMES APPEAR ON THE BALLOT PRESENTED TO THE VOTER IN A  
3 PARTICULAR STATE;

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

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

9 **24-60-3503. Conflicting provisions of law.** WHEN THE  
10 AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL  
11 POPULAR VOTE BECOMES EFFECTIVE AS PROVIDED IN ARTICLE IV OF THE  
12 AGREEMENT AND GOVERNS THE APPOINTMENT OF PRESIDENTIAL ELECTORS  
13 AS PROVIDED IN ARTICLE III OF THE AGREEMENT, THIS PART 35 SHALL  
14 SUPERSEDE ANY CONFLICTING PROVISIONS OF COLORADO LAW.

15 **SECTION 2. Act subject to petition - effective date.** This act  
16 shall take effect at 12:01 a.m. on the day following the expiration of the  
17 ninety-day period after final adjournment of the general assembly that is  
18 allowed for submitting a referendum petition pursuant to article V,  
19 section 1 (3) of the state constitution, (August 4, 2009, if adjournment  
20 sine die is on May 6, 2009); except that, if a referendum petition is filed  
21 against this act or an item, section, or part of this act within such period,  
22 then the act, item, section, or part, if approved by the people, shall take  
23 effect on the date of the official declaration of the vote thereon by  
24 proclamation of the governor.