

**COMPACT AGREEMENT AMONG THE STATES  
TO ELECT THE PRESIDENT BY NATIONAL  
POPULAR VOTE**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Neil A. Hansen**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Election Code to enact an Agreement Among the States to Elect the President by National Popular Vote.

**Highlighted Provisions:**

This bill:

- ▶ enacts an agreement between states to elect the president and vice president of the United States by national popular vote;
- ▶ provides certain procedures for election officials;
- ▶ provides conditions for the agreement to take effect; and
- ▶ provides certain definitions.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**20A-13-401**, Utah Code Annotated 1953

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28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **20A-13-401** is enacted to read:

30 **Part 4. Agreement Among the States to Elect the President by National Popular Vote**

31 **20A-13-401. Agreement Among the States to Elect the President by National**  
32 **Popular Vote.**

33 Pursuant to the terms and conditions of this part, the state seeks to join with other states  
34 and enact the Agreement Among the States to Elect the President by National Popular Vote in  
35 the form substantially as follows:

36 (1) Article I. Membership - Any state of the United States and the District of  
37 Columbia may become a member of this agreement by enacting this agreement.

38 (2) Article II. Right of the People in Member States to Vote for President and Vice  
39 President - Each member state shall conduct a statewide popular election for President and  
40 Vice President of the United States.

41 (3) Article III. Manner of Appointing Presidential Electors in Member States:

42 (a) Prior to the time set by law for the meeting and voting by the presidential electors,  
43 the chief election official of each member state shall determine the number of votes for each  
44 presidential slate in each state of the United States and in the District of Columbia in which  
45 votes have been cast in a statewide popular election and shall add such votes together to  
46 produce a "national popular vote total" for each presidential slate.

47 (b) The chief election official of each member state shall designate the presidential  
48 slate with the largest national popular vote total as the "national popular vote winner."

49 (c) The presidential elector certifying official of each member state shall certify the  
50 appointment in that official's own state of the elector slate nominated in that state in association  
51 with the national popular vote winner.

52 (d) At least six days before the day fixed by law for the meeting and voting by the  
53 presidential electors, each member state shall make a final determination of the number of  
54 popular votes cast in the state for each presidential slate and shall communicate an official  
55 statement of such determination within 24 hours to the chief election official of each other  
56 member state.

57 (e) The chief election official of each member state shall treat as conclusive an official  
58 statement containing the number of popular votes in a state for each presidential slate made by

59 the day established by federal law for making a state's final determination conclusive as to the  
60 counting of electoral votes by Congress.

61 (f) In the event of a tie for the national popular vote winner, the presidential elector  
62 certifying official of each member state shall certify the appointment of the elector slate  
63 nominated in association with the presidential slate receiving the largest number of popular  
64 votes within that official's own state.

65 (g) If, for any reason, the number of presidential electors nominated in a member state  
66 in association with the national popular vote winner is less than or greater than that state's  
67 number of electoral votes, the presidential candidate on the presidential slate that has been  
68 designated as the national popular vote winner shall have the power to nominate the  
69 presidential electors for that state and that state's presidential elector certifying official shall  
70 certify the appointment of such nominees.

71 (h) The chief election official of each member state shall immediately release to the  
72 public all vote counts or statements of votes as they are determined or obtained.

73 (i) This article shall govern the appointment of presidential electors in each member  
74 state in any year in which this agreement is, on July 20, in effect in states cumulatively  
75 possessing a majority of the electoral votes.

76 (4) Article IV. Other Provisions:

77 (a) This agreement shall take effect when states cumulatively possessing a majority of  
78 the electoral votes have enacted this agreement in substantially the same form and the  
79 enactments by such states have taken effect in each state.

80 (b) Any member state may withdraw from this agreement, except that a withdrawal  
81 occurring six months or less before the end of a president's term shall not become effective  
82 until a president or vice president shall have been qualified to serve the next term.

83 (c) The chief executive of each member state shall promptly notify the chief executive  
84 of all other states of when this agreement has been enacted and has taken effect in that official's  
85 state, when the state has withdrawn from this agreement, and when this agreement takes effect  
86 generally.

87 (d) This agreement shall terminate if the electoral college is abolished.

88 (e) If any provision of this agreement is held invalid, the remaining provisions shall not  
89 be affected.

90 (5) Article V. Definitions - For purposes of this agreement:

91 (a) "Chief executive" shall mean the governor of a state of the United States or the  
92 mayor of the District of Columbia.

93 (b) "Elector slate" shall mean a slate of candidates who have been nominated in a state  
94 for the position of presidential elector in association with a presidential slate.

95 (c) "Chief election official" shall mean the state official or body that is authorized to  
96 certify the total number of popular votes for each presidential slate.

97 (d) "Presidential elector" shall mean an elector for president and vice president of the  
98 United States.

99 (e) "Presidential elector certifying official" shall mean the state official or body that is  
100 authorized to certify the appointment of the state's presidential electors.

101 (f) "Presidential slate" shall mean a slate of two persons, the first of whom has been  
102 nominated as a candidate for president of the United States and the second of whom has been  
103 nominated as a candidate for vice president of the United States, or any legal successors to such  
104 persons, regardless of whether both names appear on the ballot presented to the voter in a  
105 particular state.

106 (g) "State" shall mean a state of the United States and the District of Columbia.

107 (h) "Statewide popular election" shall mean a general election in which votes are cast  
108 for presidential slates by individual voters and counted on a statewide basis.

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**Legislative Review Note**  
**as of 2-9-09 4:40 PM**

**Office of Legislative Research and General Counsel**

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**Fiscal Note**

**H.B. 406 - Compact Agreement among the States to Elect the President by  
National Popular Vote**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill may impact local elections officials however the impact is unquantifiable at this time.

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