

1                   **NATIONAL POPULAR VOTE INTERSTATE COMPACT**

2                                   2018 GENERAL SESSION

3                                   STATE OF UTAH

4                   **Chief Sponsor: Jeremy A. Peterson**

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

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7   **LONG TITLE**

8   **General Description:**

9           This bill modifies the Election Code to enact an agreement among the states to elect the  
10 president of the United States by national popular vote.

11 **Highlighted Provisions:**

12       This bill:

- 13       ▶ defines terms;
- 14       ▶ provides that presidential electors are elected based on the presidential candidate  
15 who receives the most popular votes nationally rather than the presidential  
16 candidate who receives the highest number of votes in the state;
- 17       ▶ enacts an agreement among the states to elect the president and vice president of the  
18 United States by national popular vote;
- 19       ▶ provides certain procedures for election officials;
- 20       ▶ provides conditions for the agreement to take effect; and
- 21       ▶ makes technical changes.

22 **Money Appropriated in this Bill:**

23       None

24 **Other Special Clauses:**

25       None

26 **Utah Code Sections Affected:**

27 AMENDS:



28           **20A-4-306**, as last amended by Laws of Utah 2011, Third Special Session, Chapter 2  
29           **20A-13-301**, as last amended by Laws of Utah 2011, Third Special Session, Chapter 2  
30           **20A-13-302**, as last amended by Laws of Utah 2001, Chapter 78

31 ENACTS:

32           **20A-13-305**, Utah Code Annotated 1953

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

35           Section 1. Section **20A-4-306** is amended to read:

36           **20A-4-306. Statewide canvass.**

37           (1) (a) The state board of canvassers shall convene:

38           (i) on the fourth Monday of November, at noon; or

39           (ii) at noon on the day following the receipt by the lieutenant governor of the last of the  
40 returns of a statewide special election.

41           (b) The state auditor, the state treasurer, and the attorney general are the state board of  
42 canvassers.

43           (c) Attendance of all members of the state board of canvassers shall be required to  
44 constitute a quorum for conducting the canvass.

45           (2) (a) The state board of canvassers shall:

46           (i) meet in the lieutenant governor's office; and

47           (ii) compute and determine the vote for officers and for and against any ballot  
48 propositions voted upon by the voters of the entire state or of two or more counties.

49           (b) The lieutenant governor, as secretary of the board shall file a report in his office  
50 that details:

51           (i) for each statewide officer and ballot proposition:

52           (A) the name of the statewide office or ballot proposition that appeared on the ballot;

53           (B) the candidates for each statewide office whose names appeared on the ballot, plus  
54 any recorded write-in candidates;

55           (C) the number of votes from each county cast for each candidate and for and against  
56 each ballot proposition;

57           (D) the total number of votes cast statewide for each candidate and for and against each  
58 ballot proposition; and

- 59 (E) the total number of votes cast statewide; and
- 60 (ii) for each officer or ballot proposition voted on in two or more counties:
- 61 (A) the name of each of those offices and ballot propositions that appeared on the
- 62 ballot;
- 63 (B) the candidates for those offices, plus any recorded write-in candidates;
- 64 (C) the number of votes from each county cast for each candidate and for and against
- 65 each ballot proposition; and
- 66 (D) the total number of votes cast for each candidate and for and against each ballot
- 67 proposition.
- 68 (c) The lieutenant governor shall:
- 69 (i) prepare certificates of election for:
- 70 (A) each successful candidate; and
- 71 (B) each of the presidential electors [~~of the candidate for president who received a~~
- 72 ~~majority of the votes~~] elected or appointed in accordance with Subsection [20A-13-301\(2\)](#);
- 73 (ii) authenticate each certificate with his seal; and
- 74 (iii) deliver a certificate of election to:
- 75 (A) each candidate who had the highest number of votes for each office; and
- 76 (B) each of the presidential electors [~~of the candidate for president who received a~~
- 77 ~~majority of the votes~~] described in Section [20A-13-302](#).
- 78 (3) If the lieutenant governor has not received election returns from all counties on the
- 79 fifth day before the day designated for the meeting of the state board of canvassers, the
- 80 lieutenant governor shall:
- 81 (a) send a messenger to the clerk of the board of county canvassers of the delinquent
- 82 county;
- 83 (b) instruct the messenger to demand a certified copy of the board of canvasser's report
- 84 required by Section [20A-4-304](#) from the clerk; and
- 85 (c) pay the messenger the per diem provided by law as compensation.
- 86 (4) The state board of canvassers may not withhold the declaration of the result or any
- 87 certificate of election because of any defect or informality in the returns of any election if the
- 88 board can determine from the returns, with reasonable certainty, what office is intended and
- 89 who is elected to it.

90 (5) (a) At noon on the fourth Monday after the regular primary election, the lieutenant  
91 governor shall:

92 (i) canvass the returns for all multicounty candidates required to file with the office of  
93 the lieutenant governor; and

94 (ii) publish and file the results of the canvass in the lieutenant governor's office.

95 (b) Not later than the August 1 after the primary election, the lieutenant governor shall  
96 certify the results of:

97 (i) the primary canvass, except for the office of president of the United States, to the  
98 county clerks; and

99 (ii) the primary canvass for the office of president of the United States to each  
100 registered political party that participated in the primary.

101 (6) (a) At noon on the day that falls seven days after the last day on which a county  
102 canvass may occur under Section 20A-4-301 for the Western States Presidential Primary  
103 election, the lieutenant governor shall:

104 (i) canvass the returns; and

105 (ii) publish and file the results of the canvass in the lieutenant governor's office.

106 (b) The lieutenant governor shall certify the results of the Western States Presidential  
107 Primary canvass to each registered political party that participated in the primary not later than  
108 the April 15 after the primary election.

109 Section 2. Section 20A-13-301 is amended to read:

110 **20A-13-301. Presidential elections -- Effect of vote.**

111 (1) (a) Each registered political party shall choose [~~persons to act as~~] presidential  
112 electors, and individuals to fill vacancies in the office of presidential electors, for [~~their~~] the  
113 political party's candidates for president and vice president of the United States according to  
114 the procedures established in [~~their~~] the political party's bylaws.

115 (b) Each registered political party shall certify to the lieutenant governor the names and  
116 addresses of the [~~persons~~] individuals selected by the political party as the party's presidential  
117 electors by August 31.

118 (2) [~~The~~] (a) Except as provided in Subsection (2)(b), the highest number of votes cast  
119 for a political party's president and vice president candidates elects the presidential electors  
120 selected by that political party.

121 (b) If the Agreement Among the States to Elect the President by National Popular Vote  
122 is in effect as described in Section 20A-13-305, the agreement governs the appointment of  
123 presidential electors.

124 Section 3. Section 20A-13-302 is amended to read:

125 **20A-13-302. Certificate of election.**

126 (1) The lieutenant governor shall transmit certificates of election to each of the electors  
127 [~~selected by the political party whose candidates for president and vice president received the~~  
128 ~~highest number of votes in Utah~~] elected or appointed in accordance with Subsection  
129 20A-13-301(2).

130 (2) Presidential electors may not receive compensation for their services.

131 Section 4. Section 20A-13-305 is enacted to read:

132 **20A-13-305. Agreement Among the States to Elect the President by National**  
133 **Popular Vote.**

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

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

139 (2) Article II. Right of the People in Member States to Vote for President and Vice  
140 President - Each member state shall conduct a statewide popular election for president and vice  
141 president of the United States.

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

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

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

150 (c) The presidential elector certifying official of each member state shall certify the  
151 appointment in that official's own state of the elector slate nominated in that state in association

152 with the national popular vote winner.

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

158 (e) The chief election official of each member state shall treat as conclusive an official  
159 statement containing the number of popular votes in a state for each presidential slate made by  
160 the day established by federal law for making a state's final determination conclusive as to the  
161 counting of electoral votes by Congress.

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

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

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

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

177 (4) Article IV. Other Provisions:

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

181 (b) Any member state may withdraw from this agreement, except that a withdrawal  
182 occurring six months or less before the end of a president's term shall not become effective

183 until a president or vice president shall have been qualified to serve the next term.

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

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

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

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

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

194 (b) "Chief executive" shall mean the governor of a state of the United States or the  
195 mayor of the District of Columbia.

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

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

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

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

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

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