

NATIONAL POPULAR VOTE COMPACT

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derek L. Kitchen

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Election Code to enact an interstate compact to elect the president of the United States by national popular vote.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that presidential electors are elected based on the presidential candidate who receives the most popular votes nationally;
- ▶ enacts an agreement among the 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
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-4-306, as last amended by Laws of Utah 2019, Chapter 433



28 **20A-13-301**, as last amended by Laws of Utah 2020, Chapter 22

29 ENACTS:

30 **20A-13-305**, Utah Code Annotated 1953

31

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

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

34 **20A-4-306. Statewide canvass.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

57 (E) the total number of votes cast statewide; and

58 (ii) for each officer or ballot proposition voted on in two or more counties:

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

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

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

93 (b) Not later than the August 1 after the primary election, the lieutenant governor shall
94 certify the results of the primary canvass to the county clerks.

95 (6) (a) At noon on the fourth Tuesday in March of a year in which a presidential
96 election will be held, the lieutenant governor shall:

97 (i) canvass the returns of the presidential primary election; and

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

99 (b) The lieutenant governor shall certify the results of the presidential primary election
100 canvass to each registered political party that participated in the primary not later than the April
101 15 after the primary election.

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

103 **20A-13-301. Presidential elections -- Effect of vote.**

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

108 (b) Each registered political party shall certify to the lieutenant governor the names and
109 addresses of the individuals selected by the political party as the party's presidential electors
110 before 5 p.m. no later than August 31.

111 (c) An unaffiliated candidate or write-in candidate for the office of president of the
112 United States shall, no later than 5 p.m. ten days after the day on which the candidate files a
113 declaration of candidacy, certify to the lieutenant governor the names and addresses of each
114 individual selected by the candidate as a presidential elector for the candidate and each
115 individual selected by the candidate to fill a vacancy in the office of presidential elector for the
116 candidate.

117 (2) [~~The~~] Except as provided in Subsection (3), the highest number of votes cast for
118 candidates for president and vice president of the United States elects the presidential electors
119 for:

120 (a) except as provided in Subsection (2)(b), the political party of those candidates; or

121 (b) if the candidates receiving the highest number of votes are unaffiliated candidates
122 or write-in candidates, the presidential electors selected for those candidates under Subsection
123 (1)(c).

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

127 Section 3. Section 20A-13-305 is enacted to read:

128 **20A-13-305. Agreement Among the States to Elect the President by National**
129 **Popular Vote.**

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

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

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

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

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

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

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

149 (d) At least six days before the day fixed by law for the meeting and voting by the
150 presidential electors, each member state shall make a final determination of the number of
151 popular votes cast in the state for each presidential slate and shall communicate an official

152 statement of such determination within 24 hours to the chief election official of each other
153 member state.

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

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

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

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

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

173 (4) Article IV. Other Provisions:

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

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

180 (c) The chief executive of each member state shall promptly notify the chief executive
181 of all other states of when this agreement has been enacted and has taken effect in that official's
182 state, when the state has withdrawn from this agreement, and when this agreement takes effect

183 generally.

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

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

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

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

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

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

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

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

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

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

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