

HOUSE BILL NO. 394

INTRODUCED BY W. CURDY

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A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING AN AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE UNDER WHICH PARTICIPATING STATES AGREE TO ALLOCATE EACH STATE'S ELECTORAL VOTES TO THE PRESIDENTIAL SLATE RECEIVING THE LARGEST NATIONAL POPULAR VOTE TOTAL; AMENDING SECTIONS 13-15-502, 13-15-507, 13-25-102, AND 13-25-103, MCA; AND PROVIDING A CONTINGENT EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Enactment -- provisions.** The agreement among the states to elect the president by national popular vote is enacted into law and entered into with all other jurisdictions joining in the compact in the form substantially as follows:

Article I. Membership

Any state of the United States and the District of Columbia may become a member of this agreement by enacting this agreement.

Article II. Right of the People in Member States to Vote for President and Vice President

Each member state shall conduct a statewide popular election for president and vice president of the United States.

Article III. Manner of Appointing Presidential Electors in Member States

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

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

(3) The presidential elector certifying official of each member state shall 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.

(4) At least six days before the day fixed by law for the meeting and voting by the presidential electors,



1 each member state shall make a final determination of the number of popular votes cast in the state for each  
2 presidential slate and shall communicate an official statement of such determination within 24 hours to the chief  
3 election official of each other member state.

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

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

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

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

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

#### 19 Article IV. Other Provisions

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

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

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

29 (4) This agreement shall terminate if the electoral college is abolished.

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

1 Article V. Definitions

2 For the purposes of this agreement:

3 (1) "chief executive" shall mean the governor of a state of the United States or the mayor of the District  
4 of Columbia;

5 (2) "elector slate" shall mean a slate of candidates who have been nominated in a state for the position  
6 of presidential elector in association with a presidential slate;

7 (3) "chief election official" shall mean the state official or body that is authorized to certify the total  
8 number of popular votes for each presidential slate;

9 (4) "presidential elector" shall mean an elector for president and vice president of the United States;

10 (5) "presidential elector certifying official" shall mean the state official or body that is authorized to certify  
11 the appointment of the state's presidential electors;

12 (6) "presidential slate" shall mean a slate of two persons, the first of whom has been nominated as a  
13 candidate for president of the United States and the second of whom has been nominated as a candidate for vice  
14 president of the United States, or any legal successors to such persons, regardless of whether both names  
15 appear on the ballot presented to the voter in a particular state;

16 (7) "state" shall mean a state of the United States and the District of Columbia; and

17 (8) "statewide popular election" shall mean a general election in which votes are cast for presidential  
18 slates by individual voters and counted on a statewide basis.

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20 **Section 2.** Section 13-15-502, MCA, is amended to read:

21 **"13-15-502. Composition and meeting of board of state canvassers.** (1) Within 27 days after the  
22 election, or sooner if the returns are all received, the state auditor, superintendent of public instruction, and  
23 attorney general shall meet as a board of state canvassers in the office of the secretary of state and determine  
24 the vote. The secretary of state shall serve as secretary of the board, keep minutes of the meeting of the board,  
25 and file them in the official records of the secretary of state's office.

26 (2) If the board of canvassers is unable to determine the national popular vote total pursuant to Article  
27 III of [section 1] by the date designated in subsection (1) of this section, the board of canvassers shall meet for  
28 the purpose of declaring elected the presidential elector slate no later than required under [section 1]."

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30 **Section 3.** Section 13-15-507, MCA, is amended to read:

1           **"13-15-507. Declaration, proclamation, and certification of results.** The board shall declare  
 2 nominated or elected the individual having the highest number of votes cast for each office, except as provided  
 3 in 13-10-204 and [section 1]. The board shall proclaim the adoption or rejection of ballot issues. Certified copies  
 4 of the report required in 13-15-506, the declaration of nominated or elected individuals, the proclamation of  
 5 adoption or rejection of ballot issues, and the effective date of adopted ballot issues shall be delivered to the  
 6 governor."

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8           **Section 4.** Section 13-25-102, MCA, is amended to read:

9           **"13-25-102. Election of electors.** (1) On the Tuesday next after the first Monday of November in the  
 10 year in which a president of the United States is to be elected, there shall be elected as many electors for  
 11 president and vice president of the United States as are allocated to this state.

12           (2) ~~The~~ Except as provided by [section 1], the votes cast for candidates for president and vice president  
 13 of each political party shall be counted for the candidates for presidential electors of the political party whose  
 14 names have been filed with the secretary of state."

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16           **Section 5.** Section 13-25-103, MCA, is amended to read:

17           **"13-25-103. Returns -- lists of electors elected.** (1) ~~The~~ Except as provided in 13-15-502(2), the votes  
 18 for candidates for president and vice president shall be given, received, returned, and canvassed as the votes  
 19 are given, returned, and canvassed for candidates for congress.

20           (2) The secretary of state shall prepare three lists of names of electors elected and affix the seal of the  
 21 state to the lists.

22           (3) The lists shall be signed by the governor and secretary of state and delivered by the latter to the  
 23 college of electors at the hour of their meeting."

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25           NEW SECTION. **Section 6. Codification instruction.** [Section 1] is intended to be codified as an  
 26 integral part of Title 13, chapter 25, and the provisions of Title 13, chapter 25, apply to [section 1].

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28           NEW SECTION. **Section 7. Contingent effective date.** [This act] is effective on the date that the  
 29 secretary of state certifies to the code commissioner that congress has consented to the compact provided in  
 30 [section 1]. The secretary of state shall submit certification within 15 days of the occurrence of the contingency.

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