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SENATE BILL 42

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO ELECTIONS; ENACTING THE AGREEMENT AMONG THE STATES  
TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE; AMENDING THE  
ELECTION CODE TO CONFORM WITH THE AGREEMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] COMPACT ENACTED AND ENTERED  
INTO.--The "Agreement Among the States to Elect the President  
by National Popular Vote" is enacted into law and entered into  
on behalf of New Mexico with any and all other states legally  
joining therein in a form substantially as follows:

"AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY

NATIONAL POPULAR VOTE

ARTICLE I

Membership

Any state of the United States and the District of

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1 Columbia may become a member of this agreement by enacting this  
2 agreement.

3 ARTICLE II

4 Right of the People in Member States to Vote for President and  
5 Vice President

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

8 ARTICLE III

9 Manner of Appointing Presidential Electors in Member States

10 A. Prior to the time set by law for the meeting and  
11 voting by the presidential electors, the chief election  
12 official of each member state shall determine the number of  
13 votes for each presidential slate in each state of the United  
14 States and in the District of Columbia in which votes have been  
15 cast in a statewide popular election and shall add such votes  
16 together to produce a "national popular vote total" for each  
17 presidential slate.

18 B. The chief election official of each member state  
19 shall designate the presidential slate with the largest  
20 national popular vote total as the "national popular vote  
21 winner".

22 C. The presidential elector certifying official of  
23 each member state shall certify the appointment in that  
24 official's own state of the elector slate nominated in that  
25 state in association with the national popular vote winner.

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1           D. At least six days before the day fixed by law  
2 for the meeting and voting by the presidential electors, each  
3 member state shall make a final determination of the number of  
4 popular votes cast in the state for each presidential slate and  
5 shall communicate an official statement of such determination  
6 within twenty-four hours to the chief election official of each  
7 other member state.

8           E. The chief election official of each member state  
9 shall treat as conclusive an official statement containing the  
10 number of popular votes in a state for each presidential slate  
11 made by the day established by federal law for making a state's  
12 final determination conclusive as to the counting of electoral  
13 votes by congress.

14           F. In event of a tie for the national popular vote  
15 winner, the presidential elector certifying official of each  
16 member state shall certify the appointment of the elector slate  
17 nominated in association with the presidential slate receiving  
18 the largest number of popular votes within that official's own  
19 state. If, for any reason, the number of presidential electors  
20 nominated in a member state in association with the national  
21 popular vote winner is less than or greater than that state's  
22 number of electoral votes, the presidential candidate on the  
23 presidential slate that has been designated as the national  
24 popular vote winner shall have the power to nominate the  
25 presidential electors for that state and that state's

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1 presidential elector certifying official shall certify the  
2 appointment of such nominees. The chief election official of  
3 each member state shall immediately release to the public all  
4 vote counts or statements of votes as they are determined or  
5 obtained.

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

10 ARTICLE IV

11 Other Provisions

12 A. This agreement shall take effect when states  
13 cumulatively possessing a majority of the electoral votes have  
14 enacted this agreement in substantially the same form and the  
15 enactments by such states have taken effect in each state.

16 B. Any member state may withdraw from this  
17 agreement, except that a withdrawal occurring six months or  
18 less before the end of a president's term shall not become  
19 effective until a president or vice president shall have been  
20 qualified to serve the next term.

21 C. The chief executive of each member state shall  
22 promptly notify the chief executive of all other states of when  
23 this agreement has been enacted and has taken effect in that  
24 official's state, when the state has withdrawn from this  
25 agreement and when this agreement takes effect generally.

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1           D. This agreement shall terminate if the electoral  
2 college is abolished.

3           E. If any provision of this agreement is held  
4 invalid, the remaining provisions shall not be affected.

5                                   ARTICLE V

6                                   Definitions

7           For purposes of this agreement:

8           A. "chief executive" means the governor of a state  
9 of the United States or the mayor of the District of Columbia;

10           B. "elector slate" means a slate of candidates who  
11 have been nominated in a state for the position of presidential  
12 elector in association with a presidential slate;

13           C. "chief election official" means the state  
14 official or body that is authorized to certify the total number  
15 of popular votes for each presidential slate;

16           D. "presidential elector" means an elector for  
17 president and vice president of the United States;

18           E. "presidential elector certifying official" means  
19 the state official or body that is authorized to certify the  
20 appointment of the state's presidential electors;

21           F. "presidential slate" means a slate of two  
22 persons, the first of whom has been nominated as a candidate  
23 for president of the United States and the second of whom has  
24 been nominated as a candidate for vice president of the United  
25 States, or any legal successors to such persons, regardless of

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1 whether both names appear on the ballot presented to the voter  
2 in a particular state;

3 G. "state" means a state of the United States and  
4 the District of Columbia; and

5 H. "statewide popular election" means a general  
6 election in which votes are cast for presidential slates by  
7 individual voters and counted on a statewide basis."

8 SECTION 2. Section 1-15-4 NMSA 1978 (being Laws 1969,  
9 Chapter 240, Section 354) is amended to read:

10 "1-15-4. PRESIDENTIAL ELECTORS--ELECTION.--

11 A. The names of the presidential elector nominees  
12 shall not be placed upon the general election ballot; instead,  
13 the secretary of state shall certify to the county clerks the  
14 names of persons nominated by each qualified political party  
15 for the offices of president and vice president of the United  
16 States.

17 B. The names of [~~such~~] the nominees for president  
18 and vice president for each qualified political party shall be  
19 printed together in pairs upon the general election ballot. A  
20 vote for any [~~such~~] pair of nominees shall be a vote for the  
21 presidential electors of the political party by which [~~such~~]  
22 the nominees were named.

23 C. [~~The~~] Except as provided in Subsection D of this  
24 section, presidential elector nominees of the party whose  
25 nominees for president and vice president receive the highest

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1 number of votes at the general election shall be the elected  
2 presidential electors for this state, and each shall be granted  
3 a certificate of election by the state canvassing board.

4 D. If the Agreement Among the States to Elect the  
5 President by National Popular Vote takes effect in accordance  
6 with Article 4 of that compact, the state canvassing board  
7 shall grant a certificate of election to the presidential  
8 elector nominees of the party whose nominees for president and  
9 vice president receive the largest national popular vote total  
10 in the general election."