SENATE BILL 19-042

A BILL FOR AN ACT

CONCERNING ADOPTION OF AN AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT OF THE UNITED STATES BY NATIONAL POPULAR VOTE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill enacts and enters into with all other states joining therein the agreement among the states to elect the president of the United States by national popular vote (agreement). Among other provisions, the agreement:

1. Permits any state of the United States and the District of
Columbia to become members of the agreement by enacting the agreement;

Requires each member state to conduct a statewide popular election for president and vice president of the United States;

Prior to the time set for the meeting and voting of presidential electors, requires the chief election official of each member state to determine the number of votes cast for each presidential slate in a statewide popular election and to designate the presidential slate with the largest national popular vote total as the national popular vote winner;

Requires the presidential elector certifying official of each member state to 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. At least 6 days before the day fixed by law for the meeting and voting by the presidential electors, requires each member state to make a final determination of the number of popular votes cast in the state for each presidential slate and to communicate an official statement of the determination within 24 hours to the chief election official of each other member state. Requires the chief election official of each member state to treat as conclusive an official statement containing the number of popular votes in a state for each presidential slate made by the day established by federal law for making a state's final determination conclusive as to the counting of electoral votes by congress.

Specifies that the agreement governs the appointment of presidential electors in each member state in any year in which the agreement is in effect on July 20 in states cumulatively possessing a majority of the electoral votes;

Permits a state's withdrawal from the agreement, except in limited circumstances;

Specifies that the agreement will terminate if the electoral college is abolished; and

Provides that the invalidity of any of the agreement's provisions do not affect the remaining provisions.

The bill specifies that when the agreement becomes effective, it supersedes any conflicting provisions of Colorado law.

When the agreement becomes effective and governs the appointment of presidential electors, each presidential elector is required to vote for the presidential candidate and, by separate ballot, vice-presidential candidate nominated by the political party or political
organization that nominated the presidential elector.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, add part 40 to article 60 of title 24 as follows:

PART 40

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

24-60-4001. Short title. The short title of this part 40 is the "Agreement Among the States to Elect the President by National Popular Vote".

24-60-4002. Execution of agreement. The agreement among the states to elect the President by national popular vote is hereby enacted into law and entered into with all jurisdictions legally joining therein, 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

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.

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."

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.

AT LEAST SIX DAYS BEFORE THE DAY FIXED BY LAW FOR THE
MEETING AND VOTING BY THE PRESIDENTIAL ELECTORS, EACH MEMBER
STATE SHALL MAKE A FINAL DETERMINATION OF THE NUMBER OF POPULAR
VOTES CAST IN THE STATE FOR EACH PRESIDENTIAL SLATE AND SHALL
COMMUNICATE AN OFFICIAL STATEMENT OF SUCH DETERMINATION WITHIN
24 HOURS TO THE CHIEF ELECTION OFFICIAL OF EACH OTHER MEMBER
STATE.

THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL
TREAT AS CONCLUSIVE AN OFFICIAL STATEMENT CONTAINING THE NUMBER
OF POPULAR VOTES IN A STATE FOR EACH PRESIDENTIAL SLATE MADE BY
THE DAY ESTABLISHED BY FEDERAL LAW FOR MAKING A STATE'S FINAL
determination conclusive as to the counting of electoral votes
by Congress.

IN EVENT OF A TIE FOR THE NATIONAL POPULAR VOTE WINNER, THE
PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL OF EACH MEMBER STATE
SHALL CERTIFY THE APPOINTMENT OF THE ELECTOR SLATE NOMINATED IN ASSOCIATION WITH THE PRESIDENTIAL SLATE RECEIVING THE LARGEST NUMBER OF POPULAR VOTES WITHIN THAT OFFICIAL'S OWN STATE.

IF, FOR ANY REASON, THE NUMBER OF PRESIDENTIAL ELECTORS NOMINATED IN A MEMBER STATE IN ASSOCIATION WITH THE NATIONAL POPULAR VOTE WINNER IS LESS THAN OR GREATER THAN THAT STATE'S NUMBER OF ELECTORAL VOTES, THE PRESIDENTIAL CANDIDATE ON THE PRESIDENTIAL SLATE THAT HAS BEEN DESIGNATED AS THE NATIONAL POPULAR VOTE WINNER SHALL HAVE THE POWER TO NOMINATE THE PRESIDENTIAL ELECTORS FOR THAT STATE AND THAT STATE'S PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL SHALL CERTIFY THE APPOINTMENT OF SUCH NOMINEES.

THE CHIEF ELECTION OFFICIAL OF EACH MEMBER STATE SHALL IMMEDIATELY RELEASE TO THE PUBLIC ALL VOTE COUNTS OR STATEMENTS OF VOTES AS THEY ARE DETERMINED OR OBTAINED.

THIS ARTICLE SHALL GOVERN THE APPOINTMENT OF PRESIDENTIAL ELECTORS IN EACH MEMBER STATE IN ANY YEAR IN WHICH THIS AGREEMENT IS, ON JULY 20, IN EFFECT IN STATES CUMULATIVELY POSSESSING A MAJORITY OF THE ELECTORAL VOTES.

ARTICLE IV -- OTHER PROVISIONS

THIS AGREEMENT SHALL TAKE EFFECT WHEN STATES CUMULATIVELY POSSESSING A MAJORITY OF THE ELECTORAL VOTES HAVE ENACTED THIS AGREEMENT IN SUBSTANTIALLY THE SAME FORM AND THE ENACTMENTS BY SUCH STATES HAVE TAKEN EFFECT IN EACH STATE.

ANY MEMBER STATE MAY WITHDRAW FROM THIS AGREEMENT, EXCEPT THAT A WITHDRAWAL OCCURRING SIX MONTHS OR LESS BEFORE THE END OF A PRESIDENT'S TERM SHALL NOT BECOME EFFECTIVE UNTIL A
PRESIDENT OR VICE PRESIDENT SHALL HAVE BEEN QUALIFIED TO SERVE
THE NEXT TERM.

THE CHIEF EXECUTIVE OF EACH MEMBER STATE SHALL PROMPTLY
NOTIFY THE CHIEF EXECUTIVE OF ALL OTHER STATES OF WHEN THIS
AGREEMENT HAS BEEN ENACTED AND HAS TAKEN EFFECT IN THAT
OFFICIAL'S STATE, WHEN THE STATE HAS WITHDRAWN FROM THIS
AGREEMENT, AND WHEN THIS AGREEMENT TAKES EFFECT GENERALLY.

THIS AGREEMENT SHALL TERMINATE IF THE ELECTORAL COLLEGE
IS ABOLISHED.

IF ANY PROVISION OF THIS AGREEMENT IS HELD INVALID, THE
REMAINING PROVISIONS SHALL NOT BE AFFECTED.

ARTICLE V -- DEFINITIONS

FOR PURPOSES OF THIS AGREEMENT,

"CHIEF EXECUTIVE" SHALL MEAN THE GOVERNOR OF A STATE OF
THE UNITED STATES OR THE MAYOR OF THE DISTRICT OF COLUMBIA;

"ELECTOR SLATE" SHALL MEAN A SLATE OF CANDIDATES WHO HAVE
BEEN NOMINATED IN A STATE FOR THE POSITION OF PRESIDENTIAL
ELECTOR IN ASSOCIATION WITH A PRESIDENTIAL SLATE;

"CHIEF ELECTION OFFICIAL" SHALL MEAN THE STATE OFFICIAL OR
BODY THAT IS AUTHORIZED TO CERTIFY THE TOTAL NUMBER OF POPULAR
VOTES FOR EACH PRESIDENTIAL SLATE;

"PRESIDENTIAL ELECTOR" SHALL MEAN AN ELECTOR FOR
PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES;

"PRESIDENTIAL ELECTOR CERTIFYING OFFICIAL" SHALL MEAN THE
STATE OFFICIAL OR BODY THAT IS AUTHORIZED TO CERTIFY THE
APPOINTMENT OF THE STATE'S PRESIDENTIAL ELECTORS;

"PRESIDENTIAL SLATE" SHALL MEAN A SLATE OF TWO PERSONS, THE
FIRST OF WHOM HAS BEEN NOMINATED AS A CANDIDATE FOR PRESIDENT
OF THE UNITED STATES AND THE SECOND OF WHOM HAS BEEN NOMINATED
AS A CANDIDATE FOR VICE PRESIDENT OF THE UNITED STATES, OR ANY
LEGAL SUCCESSORS TO SUCH PERSONS, REGARDLESS OF WHETHER BOTH
NAMES APPEAR ON THE BALLOT PRESENTED TO THE VOTER IN A
PARTICULAR STATE;

"STATE" SHALL MEAN A STATE OF THE UNITED STATES AND THE
DISTRICT OF COLUMBIA; AND

"STATEWIDE POPULAR ELECTION" SHALL MEAN A GENERAL
ELECTION IN WHICH VOTES ARE CAST FOR PRESIDENTIAL SLEATES BY
INDIVIDUAL VOTERS AND COUNTED ON A STATEWIDE BASIS.

24-60-4003. Reaffirmation of Colorado law. WHEN THE
AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL
POPULAR VOTE BECOMES EFFECTIVE AS PROVIDED IN ARTICLE IV OF THE
AGREEMENT AND GOVERNS THE APPOINTMENT OF PRESIDENTIAL ELECTORS
AS PROVIDED IN ARTICLE III OF THE AGREEMENT, EACH PRESIDENTIAL
ELECTOR SHALL VOTE FOR THE PRESIDENTIAL CANDIDATE AND, BY
SEPARATE BALLOT, VICE-PRESIDENTIAL CANDIDATE NOMINATED BY THE
POLITICAL PARTY OR POLITICAL ORGANIZATION THAT NOMINATED THE
PRESIDENTIAL ELECTOR.

24-60-4004. Conflicting provisions of law. WHEN THE
AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL
POPULAR VOTE BECOMES EFFECTIVE AS PROVIDED IN ARTICLE IV OF THE
AGREEMENT AND GOVERNS THE APPOINTMENT OF PRESIDENTIAL ELECTORS
AS PROVIDED IN ARTICLE III OF THE AGREEMENT, THIS PART 40 SHALL
SUPERSEDE ANY CONFLICTING PROVISIONS OF COLORADO LAW.

SECTION 2. Act subject to petition - effective date. This act
takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.