

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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SENATE BILL 440

Short Title: National Popular Vote Interstate Compact. (Public)

Sponsors: Senators Chaudhuri and Waddell (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 29, 2017

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH NORTH CAROLINA AS A MEMBER OF THE AGREEMENT  
3 AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR  
4 VOTE.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article 18 of Chapter 163 of the General Statutes is amended by  
7 adding the following new sections to read:

8 **"§ 163-209.3. Agreement Among the States to Elect the President by National Popular**  
9 **Vote; compact enacted and entered into.**

10 The "Agreement Among the States to Elect the President by National Popular Vote" is  
11 enacted into law and entered into on behalf of North Carolina with any and all other states  
12 legally joining therein in a form substantially as follows:

13  
14 **Article I – Membership.**

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

17  
18 **Article II – Right of the People in Member States to Vote for President and Vice**  
19 **President.**

20 Each member state shall conduct a statewide popular election for President and Vice  
21 President of the United States.

22  
23 **Article III – Manner of Appointing Presidential Electors in Member States.**

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

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

31 The presidential elector certifying official of each member state shall certify the  
32 appointment in that official's own state of the elector slate nominated in that state in association  
33 with the national popular vote winner.

34 At least six days before the day fixed by law for the meeting and voting by the presidential  
35 electors, each member state shall make a final determination of the number of popular votes



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

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

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

11 If, for any reason, the number of presidential electors nominated in a member state in  
12 association with the national popular vote winner is less than or greater than that state's number  
13 of electoral votes, the presidential candidate on the presidential slate that has been designated  
14 as the national popular vote winner shall have the power to nominate the presidential electors  
15 for that state, and that state's presidential elector certifying official shall certify the appointment  
16 of such nominees. The chief election official of each member state shall immediately release to  
17 the public all vote counts or statements of votes as they are determined or obtained.

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

#### 21 **Article IV – Other Provisions.**

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

25 Any member state may withdraw from this agreement, except that a withdrawal occurring  
26 six months or less before the end of a President's term shall not become effective until a  
27 President or Vice President shall have been qualified to serve the next term.

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

32 This agreement shall terminate if the electoral college is abolished.

33 If any provision of this agreement is held invalid, the remaining provisions shall not be  
34 affected.

#### 35 **Article V – Definitions.**

36 For purposes of this agreement, the following definitions shall apply:

- 37 (1) Chief election official. – The state official or body that is authorized to  
38 certify the total number of popular votes for each presidential slate.
- 39 (2) Chief executive. – The governor of a state of the United States or the Mayor  
40 of the District of Columbia.
- 41 (3) Electoral slate. – A slate of candidates who have been nominated in a state for  
42 the position of presidential elector in association with a presidential slate.
- 43 (4) Presidential elector. – An elector for President and Vice President of the  
44 United States.
- 45 (5) Presidential elector certifying official. – The state official or body that is  
46 authorized to certify the appointment of the state's presidential electors.
- 47 (6) Presidential slate. – A slate of two persons, the first of whom has been  
48 nominated as a candidate for President of the United States and the second  
49 of whom has been nominated as a candidate for Vice President of the United  
50 States.
- 51

1 States, or any legal successors to such persons, regardless of whether both  
2 names appear on the ballot presented to the voter in a particular state.

3 (7) State. – A state of the United States and the District of Columbia.

4 (8) Statewide popular election. – A general election in which votes are cast for  
5 presidential slates by individual voters and counted on a statewide basis.

6 **§ 163-209.4. Additional implementing language for National Popular Vote compact.**

7 (a) As used in G.S. 163-209.3 and in this section:

8 (1) "Chief election official" means the State Board of Elections.

9 (2) "Presidential elector certifying official" means the Governor as provided by  
10 G.S. 163-210.

11 (b) During any election in which the Agreement Among the States to Elect the  
12 President by National Popular Vote applies:

13 (1) The State Board of Elections, rather than issuing a certificate of election for  
14 presidential electors under G.S. 163-182.15, shall instead issue a certificate  
15 of the results of the election. The State Board of Elections shall be  
16 responsible for communicating those results to the chief election official of  
17 all other member states in the Agreement within the times specified in  
18 G.S. 163-209.3. The State Board of Elections shall designate the national  
19 popular vote winner as required under G.S. 163-209.3 and shall provide a  
20 copy to the Secretary of State.

21 (2) The reference to G.S. 163-209 contained in G.S. 163-1(c) shall instead be  
22 read as G.S. 163-209.3.

23 (3) The Governor, instead of proclaiming elected under G.S. 163-210 those  
24 presidential electors receiving the most votes as stated in the abstracts of the  
25 State Board of Elections, shall instead certify the appointment of the elector  
26 slate nominated in this State in association with the national popular vote  
27 winner, as provided under G.S. 163-209.3. In case of a tie in the national  
28 popular vote, the Governor shall certify the appointment of the elector slate  
29 nominated in association with the presidential slate receiving the largest  
30 number of popular votes in this State, as provided in G.S. 163-209.3."

31 **SECTION 2.** This act is effective when it becomes law.