

SENATE BILL No. 212

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-10; IC 3-12-5-7.

Synopsis: Indiana's electoral vote. Provides that allocation of Indiana's electoral votes to the candidate for President of the United States to the winner of the Indiana popular vote does not apply if the "Agreement Among the States to Elect the President by National Popular Vote" (agreement) becomes effective. Provides for allocation of Indiana's electoral votes to the national popular vote winner if the agreement becomes effective. Enacts and enters into the agreement.

Effective: July 1, 2019.

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January 3, 2019, read first time and referred to Committee on Elections.



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 212

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

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

1 SECTION 1. IC 3-10-4-7, AS AMENDED BY P.L.201-2017,
2 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 7. (a) The presidential electors and alternate
4 presidential electors who are elected at a **general election under this**
5 **chapter or under IC 3-10-4.5** shall assemble in the chamber of the
6 Indiana house of representatives on the first Monday after the second
7 Wednesday in December as provided by 3 U.S.C. 7, or on another day
8 fixed by the Congress of the United States, at 10 a.m. to elect the
9 President and Vice President of the United States.
10 (b) The secretary of state, or an individual designated by the
11 secretary, shall preside at this meeting. The election division shall
12 assist the secretary in conducting the election and in certifying and
13 transmitting the results in accordance with federal law.
14 (c) As provided by 3 U.S.C. 6, the governor shall deliver to the
15 presidential electors present six (6) duplicate originals of the certificate
16 of ascertainment of appointment of the presidential electors mailed to
17 the Archivist of the United States.



1 SECTION 2. IC 3-10-4.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]:

4 **Chapter 4.5. Agreement Among the States to Elect the President**
5 **by National Popular Vote**

6 **Sec. 1. The Agreement Among the States to Elect the President**
7 **by National Popular Vote is enacted and entered into by the state**
8 **of Indiana with all other states joining the agreement in the form**
9 **substantially as set forth in section 2 of this chapter.**

10 **Sec. 2. Agreement Among the States to Elect the President by**
11 **National Popular Vote.**

12 **Article I: Membership.**

13 **Any state of the United States may become a member of this**
14 **agreement by enacting this agreement.**

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

17 **Each member state shall conduct a statewide popular election**
18 **for President and Vice President of the United States.**

19 **Article III: Manner of Appointing Presidential Electors in**
20 **Member States.**

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

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

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

35 **At least six (6) days before the day fixed by law for the meeting**
36 **and voting by the presidential electors, each member state shall**
37 **make a final determination of the number of popular votes cast in**
38 **the state for each presidential slate and shall communicate an**
39 **official statement of such determination within twenty-four (24)**
40 **hours to the chief election official of each other member state.**

41 **The chief election official of each member state shall treat as**
42 **conclusive an official statement containing the number of popular**



1 votes in a state for each presidential slate made by the day
2 established by federal law for making a state's final determination
3 conclusive as to the counting of electoral votes by Congress.

4 If there is a tie for the national popular vote winner, the
5 presidential elector certifying official of each member state shall
6 certify the appointment of the elector slate nominated in
7 association with the presidential slate receiving the largest number
8 of popular votes within that official's own state.

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

20 This article governs the appointment of presidential electors in
21 each member state in any year in which this agreement is, on July
22 20, in effect in states cumulatively possessing a majority of the
23 electoral votes.

24 **Article IV: Other Provisions.**

25 This agreement takes effect when states cumulatively possessing
26 a majority of the electoral votes have enacted this agreement in
27 substantially the same form and the enactments by such states have
28 taken effect in each state.

29 Any member state may withdraw from this agreement, except
30 that a withdrawal occurring six (6) months or less before the end
31 of a President's term shall not become effective until a President or
32 Vice President shall have been qualified to serve the next term.

33 The chief executive of each member state shall promptly notify
34 the chief executive of all other states of when this agreement has
35 been enacted and has taken effect in that official's state, when the
36 state has withdrawn from this agreement, and when this agreement
37 takes effect generally.

38 This agreement shall terminate if the electoral college is
39 abolished.

40 If any provision of this agreement is held invalid, the remaining
41 provisions are not affected.

42 **Article V: Definitions.**



- 1 **For purposes of this agreement:**
2 **"Chief election official" means the state official or body that is**
3 **authorized to certify the total number of popular votes for each**
4 **presidential slate.**
5 **"Chief executive" means the governor of a state of the United**
6 **States or the mayor of the District of Columbia.**
7 **"Elector slate" means a slate of candidates who have been**
8 **nominated in a state for the position of presidential elector in**
9 **association with a presidential slate.**
10 **"Presidential elector" means an elector for President and Vice**
11 **President of the United States.**
12 **"Presidential elector certifying official" means the state official**
13 **or body that is authorized to certify the appointment of the state's**
14 **presidential electors.**
15 **"Presidential slate" means a slate of two (2) persons, the first of**
16 **whom has been nominated as a candidate for President of the**
17 **United States and the second of whom has been nominated as a**
18 **candidate for Vice President of the United States, or any legal**
19 **successors to such persons, regardless of whether both names**
20 **appear on the ballot presented to the voter in a particular state.**
21 **"State" means a state of the United States and the District of**
22 **Columbia.**
23 **"Statewide popular election" means a general election in which**
24 **votes are cast for presidential slates by individual voters and**
25 **counted on a statewide basis.**
26 SECTION 3. IC 3-12-5-7, AS AMENDED BY P.L.201-2017,
27 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2019]: Sec. 7. **(a)** Upon receipt of the certified statements
29 from the circuit court clerks under section 6 of this chapter and not
30 later than noon of the last Tuesday in November, the election division
31 shall tabulate the number of votes cast for each candidate for:
32 (1) ~~presidential electors and alternate presidential electors;~~
33 **(1) the President of the United States;**
34 (2) a state office other than governor and lieutenant governor; and
35 (3) a local office for which a declaration of candidacy must be
36 filed with the election division under IC 3-8-2.
37 **(b)** Immediately following the election division's tabulation, the
38 secretary of state shall certify to the governor **the following:**
39 **(1)** The candidate receiving the highest number of votes for each
40 office.
41 **(2) The votes for each of the other candidates for President**
42 **and Vice President of the United States.**



1 **(3) The names of the electors and alternate electors for**
2 **President of the United States determined under IC 3-10-4 or**
3 **IC 3-10-4.5.**

