

Senate Bill No. 199

(By Senator Kessler (Mr. President))

[Introduced February 18, 2013; referred to the Committee on
Interstate Cooperation; and then to the Committee on the
Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new article, designated §3-1D-1, relating to
the agreement among states to elect the President by national
popular vote.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended
by adding thereto a new article, designated §3-1D-1, to read as
follows:

**ARTICLE 1D. AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY
NATIONAL POPULAR VOTE.**

**§3-1D-1. Agreement among the states to elect the president by
national popular vote; form of compact.**

1 the "national popular vote winner."

2 The presidential elector certifying official of each member
3 state shall certify the appointment in that official's own state of
4 the elector slate nominated in that state in association with the
5 national popular vote winner.

6 At least six days before the day fixed by law for the meeting
7 and voting by the presidential electors, each member state shall
8 make a final determination of the number of popular votes cast in
9 the state for each presidential slate and shall communicate an
10 official statement of the determination within twenty-four hours to
11 the chief election official of each other member state. The chief
12 election official of each member state shall treat as conclusive an
13 official statement containing the number of popular votes in a
14 state for each presidential slate made by the day established by
15 federal law for making a state's final determination conclusive as
16 to the counting of electoral votes by Congress.

17 In event of a tie for the national popular vote winner, the
18 presidential elector certifying official of each member state shall
19 certify the appointment of the elector slate nominated in
20 association with the presidential slate receiving the largest
21 number of popular votes within that official's own state. If, for
22 any reason, the number of presidential electors nominated in a
23 member state in association with the national popular vote winner

1 is less than or greater than that state's number of electoral
2 votes, the presidential candidate on the presidential slate that
3 has been designated as the national popular vote winner has the
4 power to nominate the presidential electors for that state and that
5 state's presidential elector certifying official shall certify the
6 appointment of the nominees. The chief election official of each
7 member state shall immediately release to the public all vote
8 counts or statements of votes as they are determined or obtained.
9 This article governs the appointment of presidential electors in
10 each member state in any year in which this agreement is, on July
11 20, in effect in states cumulatively possessing a majority of the
12 electoral votes.

13 **ARTICLE IV. OTHER PROVISIONS.**

14 This agreement takes effect when states cumulatively
15 possessing a majority of the electoral votes have enacted this
16 agreement in substantially the same form and the enactments by the
17 states have taken effect in each state. Any member state may
18 withdraw from this agreement, except that a withdrawal occurring
19 six months or less before the end of a president's term does not
20 become effective until a president or vice president has been
21 qualified to serve the next term. The chief executive of each
22 member state shall promptly notify the chief executive of all other
23 states of when this agreement has been enacted and has taken effect

1 in that official's state, when this state has withdrawn from this
2 agreement and when this agreement takes effect generally. This
3 agreement terminates if the electoral college is abolished. If any
4 provision of this agreement is held invalid, the remaining
5 provisions are not affected.

6 **ARTICLE V. DEFINITIONS.**

7 For purposes of this agreement:

8 "Chief executive" means the Governor of a State of the United
9 States or the Mayor of the District of Columbia;

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

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

16 "Presidential elector" means an elector for President and
17 Vice President of the United States;

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

21 "Presidential slate" means a slate of two persons, the first
22 of whom has been nominated as a candidate for President of the
23 United States and the second of whom has been nominated as a

1 candidate for Vice President of the United States, or any legal
2 successors to those persons, regardless of whether both names
3 appear on the ballot presented to the voter in a particular state;

4 "State" means a State of the United States and the District of
5 Columbia; and

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

NOTE: The purpose of this bill is to enter West Virginia into an interstate compact known as the agreement among the states to elect the President by National Popular Vote. Under the compact, the state agrees to award its electoral votes to the presidential ticket that receives the most popular votes in all fifty states and the District of Columbia. The compact goes into effect when states cumulatively possessing a majority of the electoral votes have joined the compact.

This article is new; therefore, strike-throughs and underscoring have been omitted.