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ASSEMBLY BILL NO. 413—ASSEMBLYMAN CLABORN

MARCH 16, 2009

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Referred to Committee on Elections, Procedures, Ethics,  
and Constitutional Amendments

**SUMMARY**—Enacts the Agreement Among the States to Elect the  
President by National Popular Vote. (BDR 24-822)

**FISCAL NOTE:** Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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**AN ACT** relating to elections; enacting the Agreement Among the  
States to Elect the President by National Popular Vote;  
and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law provides that the nominees for presidential elector of the  
2 candidates for President and Vice President who receive the highest number of  
3 votes in this State at the general election thereby become the official presidential  
4 electors for this State. (NRS 298.025) After being selected, the official  
5 presidential electors convene to vote for President and Vice President. The official  
6 presidential electors are bound to vote for the nominees for President and Vice  
7 President of the party that prevailed or the independent candidates who won the  
8 most votes in this State at the general election. (NRS 298.050) This bill provides  
9 that the nominees for presidential elector of the candidates for President and Vice  
10 President who received the highest number of popular votes in the nation would  
11 become the official presidential electors for Nevada. The provisions of this bill will  
12 become effective on the date that states with enough electoral votes to constitute a  
13 majority of the electoral votes have adopted this agreement (270 electoral votes of  
14 538).

15 This bill contains the text of the Agreement Among the States to Elect the  
16 President by National Popular Vote without any changes necessary to conform to  
17 Nevada law, because each state wishing to participate in the compact is required to  
18 enact the same 888 words, in addition to the enacting clause contained in the  
19 Agreement.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1       **Section 1.** Chapter 298 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3       *The Agreement Among the States to Elect the President by*  
4 *National Popular Vote is hereby enacted into law and entered into*  
5 *with all jurisdictions legally joining the Compact, in substantially*  
6 *the form set forth in this section:*

7  
8                               *Article I—Membership*  
9

10       *Any State of the United States and the District of Columbia*  
11 *may become a member of this agreement by enacting this*  
12 *agreement.*

13  
14                               *Article II—Right of the People in Member States to*  
15 *Vote for President and Vice President*  
16

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

19  
20                               *Article III—Manner of Appointing Presidential*  
21 *Electors in Member States*  
22

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

30  
31       *The chief election official of each member state shall designate*  
32 *the presidential slate with the largest national popular vote total as*  
33 *the “national popular vote winner.”*  
34

35       *The presidential elector certifying official of each member state*  
36 *shall certify the appointment in that official’s own state of the*  
37 *elector slate nominated in that state in association with the*  
38 *national popular vote winner.*  
39

40       *At least six days before the day fixed by law for the meeting and*  
41 *voting by the presidential electors, each member state shall make a*  
42 *final determination of the number of popular votes cast in the*



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

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

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

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

28  
29 *This article shall govern the appointment of presidential*  
30 *electors in each member state in any year in which this agreement*  
31 *is, on July 20, in effect in states cumulatively possessing a*  
32 *majority of the electoral votes.*

#### 33 *Article IV—Other Provisions*

34  
35  
36 *This agreement shall take effect when states cumulatively*  
37 *possessing a majority of the electoral votes have enacted this*  
38 *agreement in substantially the same form and the enactments by*  
39 *such states have taken effect in each state.*

40  
41 *Any member state may withdraw from this agreement, except*  
42 *that a withdrawal occurring six months or less before the end of a*  
43 *President's term shall not become effective until a President or*  
44 *Vice President shall have been qualified to serve the next term.*





1 *“state” shall mean a State of the United States and the District of*  
2 *Columbia; and*

3  
4 *“statewide popular election” shall mean a general election in*  
5 *which votes are cast for presidential slates by individual voters and*  
6 *counted on a statewide basis.*

7 **Sec. 2.** NRS 298.025 is hereby amended to read as follows:

8 298.025 Presidential electors are not nominated at the primary  
9 election or placed upon the general election ballot . ~~[, but the~~  
10 ~~nominees of the presidential and vice presidential candidates who~~  
11 ~~receive the highest number of votes at the general election thereby~~  
12 ~~become the official presidential electors.]~~ The presidential electors  
13 shall perform the duties of such electors as required by law and the  
14 Constitution of the United States.

15 **Sec. 3.** NRS 298.050 is hereby amended to read as follows:

16 298.050 The presidential electors, when convened, shall vote  
17 by ballot for one person for President and one person for Vice  
18 President of the United States, one of whom, at least, must not be an  
19 inhabitant of this State. ~~[The presidential electors shall vote only for~~  
20 ~~the nominees for President and Vice President of the party or the~~  
21 ~~independent candidates that prevailed in this State in the preceding~~  
22 ~~general election.]~~

23 **Sec. 4.** NRS 298.040 is hereby repealed.

24 **Sec. 5.** 1. This section and section 1 of this act become  
25 effective upon passage and approval.

26 2. Sections 2, 3 and 4 of this act become effective on the date  
27 the Agreement Among the States to Elect the President by National  
28 Popular Vote becomes effective as provided in Article IV of that  
29 Agreement and, if that Agreement governs the appointment of  
30 presidential electors for a presidential election, as provided in  
31 Article III of that Agreement.

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### TEXT OF REPEALED SECTION

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**298.040 Filling vacancy upon death or absence of presidential elector.** In case of the death or absence of any presidential elector chosen, or if the number of presidential electors shall from any cause be deficient, the national committeewoman, the national committeeman and the state chairman of the party whose nominees for President and Vice President received the greatest number of votes in the State at the next preceding general election shall forthwith elect, from the qualified electors of this State



registered as affiliated with such prevailing party, as many persons as will supply the deficiency. A majority of such three party officials shall be sufficient to fill such vacancies.

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