

**NOTICE OF ELECTION TO INCREASE  
TAXES ON A REFERRED MEASURE**

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**2020 State Ballot  
Information Booklet**

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**STATEWIDE ELECTION DAY  
is Tuesday, November 3, 2020**

Voter service and polling centers are open 7 a.m. to 7 p.m. on Election Day.  
Ballots are mailed to all registered voters between October 9 and October 16, 2020.





# Adopt Agreement to Elect U.S. President By National Popular Vote

*Placed on the ballot by referendum petition • Passes with a majority vote*

## Proposition 113, if approved, would:

- enter Colorado into an agreement among states to elect the President of the United States by a national popular vote once enough states join the National Popular Vote Interstate Compact.

## What Your Vote Means

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**YES** A “yes” vote on Proposition 113 approves a bill passed by the legislature and signed by the Governor joining Colorado with other states as part of an agreement to elect the President of the United States by national popular vote if enough states enter the agreement.

**NO** A “no” vote on Proposition 113 rejects a bill passed by the legislature and signed by the Governor and retains Colorado’s current system of awarding all of its electors for the President of the United States to the winner of the Colorado popular vote.

## Summary and Analysis for Proposition 113

### What is the National Popular Vote Interstate Compact?

The National Popular Vote Interstate Compact is an agreement among participating states to ensure that the presidential candidate who wins the most votes nationwide is elected President. States that join the agreement commit to awarding all of their state's electoral votes to the candidate who receives the most popular votes nationwide once the agreement becomes binding. The agreement only becomes binding when participating states represent more than half of all electoral votes, at least 270 of the total 538 votes in the Electoral College. This ensures that the candidate who wins the most votes nationwide is also elected by the Electoral College, since a majority of electoral votes will go to the winner of the national popular vote.

If Proposition 113 is approved by voters, Colorado will be the fifteenth state, plus the District of Columbia, to join the agreement, bringing the number of committed electoral votes to 196, short of the 270 needed.

### What happens if Proposition 113 passes?

Until enough states join the agreement, Colorado will continue to award its electoral votes to the winner of the state's popular vote. Thus, this measure will have no effect on the 2020 presidential election. If the agreement goes into effect, because states with enough electoral votes join it in the future, this measure would require Colorado's presidential electors to vote for the winner of the national popular vote, regardless of which candidate wins the most votes in Colorado.

### How is the President of the United States elected now?

Individual voters in the states vote for a ticket consisting of the President and Vice President of the United States. The tally of individual votes is known as the popular vote. The President is then elected by the 538 members of the Electoral College, known as electors. The popular vote in each state determines which candidate the state's electors will vote for in the Electoral College.

Each December after a presidential election, the electors cast votes to elect the President and Vice President. Each state receives a number of electors equal to the total of its Senators and Representatives in Congress, plus the District of Columbia receives three electors. Every state has two Senators and a number of Representatives based on the state's population at the last census. Colorado has two Senators and currently has seven Representatives, for a total of nine electors. Individual electors are chosen by the political parties in each state.

To win the presidential election, a candidate must receive a majority of electoral votes, at least 270 out of the 538. Under Article II, Section 1 of the U.S. Constitution, each state's legislature determines how to award its electoral votes. In all but two states (Maine and Nebraska), all of the state's electoral votes are allocated to the candidate who wins the most votes in the state. If no candidate receives a majority in the Electoral College, the House of Representatives chooses the President and the Senate chooses the Vice President, although this has not occurred since 1824.

Throughout the history of the United States, there have been five elections in which the national popular vote and the Electoral College vote have diverged. Two of these elections were in 2000 and 2016, while the other three occurred in the 1800s.

### **Why is Proposition 113 on the ballot?**

The General Assembly passed, and the Governor signed, Senate Bill 19-042 during the 2019 legislative session. This measure is the result of a referendum petition, a right reserved under the Colorado Constitution that allows citizens to place a bill passed by the General Assembly on the statewide ballot. A referendum petition can be filed against any bill passed by the Colorado legislature, unless the General Assembly declares that the bill is necessary to preserve public peace, health, and safety. Proposition 113 consists of the text of Senate Bill 19-042, and if it passes, the bill remains state law. If Proposition 113 is rejected, this text will be removed from state law. This measure is on the ballot because enough signatures were collected to refer the bill to voters.

*For information on those issue committees that support or oppose the measures on the ballot at the November 3, 2020, election, go to the Colorado Secretary of State's elections center web site hyperlink for ballot and initiative information:*

<https://www.sos.state.co.us/pubs/elections/Initiatives/InitiativesHome.html>

### **Arguments For Proposition 113**

- 1) A national popular vote for President advances the democratic principle of one person, one vote, and ensures that votes in every community count equally. The national popular vote for President could also encourage candidates to campaign in a way that addresses the concerns of voters in all 50 states. The current system places too much importance on just a few competitive states where candidates focus almost all of their attention and campaign efforts. Candidates should reach out to voters wherever they live and take positions on issues that affect all parts of the country. The national popular vote gives all voters an equal impact on the outcome of the election, regardless of where they live or whether their state's final vote count might be close.
- 2) The President of the United States should be the person who gets the most popular votes nationwide. Five times in our country's history, including twice in the last 20 years, a candidate has won the presidential election despite losing the popular vote. A "yes" vote on Proposition 113 is an important step toward making sure this cannot happen in the future. Recent history demonstrates that when the results are close in even a few states, it is easy for the Electoral College vote to not reflect the national popular vote.

## Arguments Against Proposition 113

- 1) Colorado should cast its electoral votes for the candidate who obtains the most votes in Colorado. If the agreement goes into effect, Colorado's presidential electors would be obligated to vote for whomever wins the national popular vote, even if that candidate did not win the majority of votes in the state. Further, a national popular vote may encourage candidates to focus their campaigns in large population centers where they can efficiently reach more voters. In this process, all Coloradans risk having the unique regional issues they care about lose out to the interests of a few large cities in a few large states.
- 2) This agreement attempts to sidestep the U.S. Constitution and could lead to disruptions in our electoral system. Rather than amend the U.S. Constitution to implement a true national popular vote, the compact relies on legal agreements between member states, which have different election requirements and policies, to ensure that their electors will vote the way the compact demands. In addition, in a close election run by 50 separate states, trying to determine who won the national popular vote could lead to recounts and litigation in every state, delaying results, causing confusion, and eroding confidence in our electoral system.

## Estimate of Fiscal Impact for Proposition 113

**No fiscal impact.** Proposition 113 is assessed as having no fiscal impact. The Secretary of State is responsible for certifying presidential electors, and this bill does not change the process by which this is done. Therefore, the measure does not affect the revenue, spending, or workload of any state or local government entity.



## Titles and Text

### **Proposition 113** **Adopt Agreement to Elect U.S. President By National Popular Vote**

**Ballot Title:**

Shall the following Act of the General Assembly be approved: An Act concerning adoption of an agreement among the states to elect the President of the United States by national popular vote, being Senate Bill No. 19-042?

**Text of Measure:**

*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.



## Titles and Text

### 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 SLATES 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.