

By: Representative Banks

To: Apportionment and
Elections; Constitution

HOUSE BILL NO. 369

1 AN ACT TO ENACT INTO LAW THE AGREEMENT AMONG THE STATES TO
2 ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE AND PROVIDE THAT THE
3 STATE OF MISSISSIPPI ENTERS THE AGREEMENT WITH OTHER STATES THAT
4 JOIN IN THE AGREEMENT; TO BRING FORWARD SECTIONS 23-15-771,
5 23-15-781, 23-15-785, 23-15-787 AND 23-15-789, MISSISSIPPI CODE OF
6 1972, WHICH PROVIDE FOR THE SELECTION OF PRESIDENTIAL ELECTORS AT
7 GENERAL ELECTION, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR
8 RELATED PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 **SECTION 1.** The Agreement Among the States to Elect the
11 President by National Popular Vote is enacted into law and entered
12 into by this state with all other states legally joining in the
13 agreement in accordance with its terms, in substantially the
14 following form:

15 **ARTICLE I**

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

19 **ARTICLE II**

20 Right of the People in Member States to Vote for President
21 and Vice President. Each member state shall conduct a statewide



22 popular election for President and Vice President of the United
23 States.

24 **ARTICLE III**

25 Manner of Appointing Presidential Electors in Member States.

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

33 2. The chief election official of each member state shall
34 designate the presidential slate with the largest national popular
35 vote total as the "national popular vote winner."

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

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



47 5. The chief election official of each member state shall
48 treat as conclusive an official statement containing the number of
49 popular votes in a state for each presidential slate made by the
50 date established by federal law for making a state's final
51 determination conclusive as to the counting of electoral votes by
52 Congress.

53 6. In the event of a tie for the national popular vote
54 winner, the presidential elector certifying official of each
55 member state shall certify the appointment of the elector slate
56 nominated in association with the presidential slate receiving the
57 largest number of popular votes within that official's own state.

58 7. If, for any reason, the number of presidential electors
59 nominated in a member state in association with the national
60 popular vote winner is less than or greater than that state's
61 number of electoral votes, the presidential candidate on the
62 presidential slate that has been designated as the national
63 popular vote winner shall have the power to nominate the
64 presidential electors for that state and that state's presidential
65 elector certifying official shall certify the appointment of such
66 nominees.

67 8. The chief election official of each member state shall
68 immediately release to the public all vote counts or statements of
69 votes as they are determined or obtained.

70 9. This article shall govern the appointment of presidential
71 electors in each member state in any year in which this agreement



72 is, on July twentieth, in effect in states cumulatively possessing
73 a majority of the electoral votes.

74 **ARTICLE IV**

75 Other Provision. This agreement shall take effect when
76 states cumulatively possessing a majority of the electoral votes
77 have enacted this agreement in substantially the same form and the
78 enactments by such states have taken effect in each state. Any
79 member state may withdraw from this agreement, except that a
80 withdrawal occurring six (6) months or less before the end of a
81 president's term shall not become effective until a president or
82 vice president shall have been qualified to serve the next term.
83 The chief executive of each member state shall promptly notify the
84 chief executive of all other states of when this agreement has
85 been enacted and has taken effect in that official's state, when
86 the state has withdrawn from this agreement, and when this
87 agreement takes effect generally.

88 This agreement shall terminate if the electoral college is
89 abolished.

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

92 **ARTICLE V**

93 Definitions. For purposes of this agreement:

94 1. "Chief executive" shall mean the governor of a state of
95 the United States or the mayor of the District of Columbia.



96 2. "Elector slate" shall mean a slate of candidates who have
97 been nominated in a state for the position of presidential elector
98 in association with a presidential slate.

99 3. "Chief election official" shall mean the state official
100 or body that is authorized to certify the total number of popular
101 votes for each presidential slate.

102 4. "Presidential elector" shall mean an elector for
103 President and Vice President of the United States.

104 5. "Presidential elector certifying official" shall mean the
105 state official or body that is authorized to certify the
106 appointment of the state's presidential electors.

107 6. "Presidential slate" shall mean a slate of two (2)
108 persons, the first of whom has been nominated as a candidate for
109 President of the United States and the second of whom has been
110 nominated as a candidate for Vice President of the United States,
111 or any legal successors to such persons, regardless of whether
112 both names appear on the ballot presented to the voter in a
113 particular state.

114 7. "State" shall mean a state of the United States and the
115 District of Columbia.

116 8. "Statewide popular election" shall mean a general
117 election in which votes are cast for presidential slates by
118 individual voters and counted on a statewide basis.

119 **SECTION 2.** Section 23-15-771, Mississippi Code of 1972, is
120 brought forward as follows:



121 23-15-771. At the state convention, a slate of electors
122 composed of the number of electors allotted to this state, which
123 said electors announce a clearly expressed design and purpose to
124 support the candidates for President and Vice President of the
125 national political party with which the said party of this state
126 has had an affiliation and identity of purpose heretofore, shall
127 be designated and selected for a place upon the primary election
128 ballot to be held as herein provided.

129 **SECTION 3.** Section 23-15-781, Mississippi Code of 1972, is
130 brought forward as follows:

131 23-15-781. The number of electors of President and Vice
132 President of the United States to which this state may be
133 entitled, shall be chosen by the qualified electors of the state
134 at large, on the first Tuesday after the first Monday of November
135 in the year in which an election of President and Vice President
136 shall occur.

137 **SECTION 4.** Section 23-15-785, Mississippi Code of 1972, is
138 brought forward as follows:

139 23-15-785. (1) When presidential electors are to be chosen,
140 the Secretary of State of Mississippi shall certify to the circuit
141 clerks of the several counties the names of all candidates for
142 President and Vice President who are nominated by any national
143 convention or other like assembly of any political party or by
144 written petition signed by at least one thousand (1,000) qualified
145 voters of this state.



146 (2) The certificate of nomination by a political party
147 convention must be signed by the presiding officer and secretary
148 of the convention and by the chairman of the state executive
149 committee of the political party making the nomination. Any
150 nominating petition, to be valid, must contain the signatures as
151 well as the addresses of the petitioners. The certificates and
152 petitions must be filed with the State Board of Election
153 Commissioners by filing them in the Office of the Secretary of
154 State by 5:00 p.m. not less than sixty (60) days previous to the
155 day of the election.

156 (3) Each certificate of nomination and nominating petition
157 must be accompanied by a list of the names and addresses of
158 persons, who shall be qualified voters of this state, equal in
159 number to the number of presidential electors to be chosen. Each
160 person so listed shall execute the following statement which shall
161 be attached to the certificate or petition when it is filed with
162 the State Board of Election Commissioners: "I do hereby consent
163 and do hereby agree to serve as elector for President and Vice
164 President of the United States, if elected to that position, and
165 do hereby agree that, if so elected, I shall cast my ballot as
166 such for _____ for President and _____ for Vice President of
167 the United States" (inserting in said blank spaces the respective
168 names of the persons named as nominees for said respective offices
169 in the certificate to which this statement is attached).



170 (4) The State Board of Election Commissioners and any other
171 official charged with the preparation of official ballots shall
172 place on such official ballots the words "PRESIDENTIAL ELECTORS
173 FOR (here insert the name of the candidate for President, the word
174 'AND' and the name of the candidate for Vice President)" in lieu
175 of placing the names of such presidential electors on the official
176 ballots, and a vote cast therefor shall be counted and shall be in
177 all respects effective as a vote for each of the presidential
178 electors representing those candidates for President and Vice
179 President of the United States. In the case of unpledged
180 electors, the State Board of Election Commissioners and any other
181 official charged with the preparation of official ballots shall
182 place on such official ballots the words "UNPLEDGED ELECTOR(S)
183 (here insert the name(s) of individual unpledged elector(s) if
184 placed upon the ballot based upon a petition granted in the manner
185 provided by law stating the individual name(s) of the elector(s)
186 rather than a slate of electors)."

187 **SECTION 5.** Section 23-15-787, Mississippi Code of 1972, is
188 brought forward as follows:

189 23-15-787. The Secretary of State shall, immediately after
190 ascertaining the result, transmit by mail a notice, in writing, to
191 the persons elected.

192 **SECTION 6.** Section 23-15-789, Mississippi Code of 1972, is
193 brought forward as follows:



194 23-15-789. The electors chosen shall meet at the seat of
195 government of the state on the first Monday after the second
196 Wednesday in December next following their election, and shall
197 there give their votes for President and Vice President of the
198 United States, and shall make return thereof agreeably to the laws
199 of the United States; and should any elector so chosen fail to
200 attend and give his vote, the other electors attending shall
201 appoint some person or persons to fill the vacancy or vacancies,
202 who shall attend and vote as electors; and such appointment shall
203 be forthwith reported to the Secretary of State.

204 **SECTION 7.** This act shall take effect and be in force from
205 and after July 1, 2020.

