

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2271

Introduced by

Senators Erbele, Dever, Kreun

Representatives D. Johnson, Trottier

1 A BILL ~~for an Act to create and enact section 16.1-14-29 of the North Dakota Century Code,~~
2 ~~relating to withholding vote totals for presidential elections; to amend and reenact sections~~
3 ~~16.1-14-01 and 16.1-14-27 of the North Dakota Century Code, relating to procedures for~~
4 ~~canvassing and counting votes for presidential electors; to provide a penalty; and to provide a~~
5 ~~contingent effective date.~~ for an Act to provide a statement of legislative intent regarding
6 presidential elections; to provide for a legislative management study; and to provide a directive.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 ~~—~~ **SECTION 1. AMENDMENT.** ~~Section 16.1-14-01 of the North Dakota Century Code is~~
9 ~~amended and reenacted as follows:~~

10 ~~—~~ **16.1-14-01. Canvassing votes for presidential electors -- Tie vote.**

11 ~~—~~ ~~The state canvassing board in examining and making a statement of the votes for, and in~~
12 ~~determining and certifying the persons chosen as, presidential electors shall proceed in the~~
13 ~~manner prescribed in this title for the canvass of votes for state officers, except as provided in~~
14 ~~section 16.1-14-29. The secretary of state likewise also shall file and record such the statement~~
15 ~~and determination. In canvassing the returns for presidential electors, the group of electors~~
16 ~~having the greatest numberpercentage of votes is to be declared elected. If two or more groups~~
17 ~~of electors are found to have an equal and the greatest numberpercentage of votes, the election~~
18 ~~of one group must be determined by a drawing of names, with the governor drawing the names~~
19 ~~in the presence of the other members of the state canvassing board.~~

20 ~~—~~ **SECTION 2. AMENDMENT.** ~~Section 16.1-14-27 of the North Dakota Century Code is~~
21 ~~amended and reenacted as follows:~~

22 ~~—~~ **16.1-14-27. Application of other statutes.**

23 ~~—~~ ~~Except as provided in sections 16.1-14-18 through 16.1-14-27 and section 16.1-14-29, the~~
24 ~~provisions of law relating to absent voters' ballots apply also to the casting and counting of~~

1 ballots of new residents, the furnishing of election supplies, ballots, canvassing of ballots, and
2 making proper returns of the results of the election.

3 ~~— **SECTION 3.** Section 16.1-14-29 of the North Dakota Century Code is created and enacted~~
4 ~~as follows:~~

5 ~~— **16.1-14-29. Vote totals - Presidential elections.**~~

6 ~~— Unless a recount has been requested under chapter 16.1-16 or a contest is initiated under~~
7 ~~this chapter, a public officer, employee, or contractor of this state or of a political subdivision of~~
8 ~~this state may not release to the public the number of votes cast in the general election for the~~
9 ~~office of the president of the United States until after the times set by law for the meetings and~~
10 ~~votes of the presidential electors in all states. After the votes for presidential electors are~~
11 ~~canvassed, the secretary of state may release the percentage of statewide votes cast for each~~
12 ~~set of presidential electors to the nearest hundredth of a percentage point, a list of presidential~~
13 ~~candidates in order of increasing or decreasing percentage of the vote received by presidential~~
14 ~~electors selected by the candidates, and the presidential candidate whose electors received the~~
15 ~~highest percentage of votes.~~

16 ~~— **SECTION 4. CONTINGENT EFFECTIVE DATE.** This Act becomes effective upon~~
17 ~~certification by the secretary of state to the legislative council of the adoption and enactment of~~
18 ~~substantially the same form of the national popular vote interstate compact has been adopted~~
19 ~~and enacted by a number of states cumulatively possessing a majority of the electoral college~~
20 ~~votes.~~

21 **SECTION 1. LEGISLATIVE INTENT - OPPOSITION TO NATIONAL POPULAR VOTE**
22 **INTERSTATE COMPACT - APPEAL TO CONGRESS.** It is the intent of the sixty-seventh
23 legislative assembly to oppose the national popular vote interstate compact, which would
24 circumvent the electoral process set forth in the United States Constitution. If the compact
25 becomes effective, the compact will require each signatory state to award the state's electoral
26 college votes to the presidential candidate who received the most popular votes in all fifty states
27 and the District of Columbia. Fifteen states and the District of Columbia have adopted the
28 compact. However, the current system for awarding electoral college votes to the winners of
29 state elections fulfills the requirements for appointing electoral college electors under Article II of
30 the United States Constitution and ensures states have proportionate representation in
31 presidential elections. The sixty-seventh legislative assembly urges Congress not to consent to

1 the interstate compact and to oppose any efforts to seek a national popular election of a
2 president other than through an amendment to the Constitution.

3 **SECTION 2. LEGISLATIVE MANAGEMENT STUDY - NATIONAL POPULAR VOTE**

4 **INTERSTATE COMPACT.** During the 2021-22 interim, the legislative management shall
5 consider studying how to defeat the effort of the national popular vote interstate compact to
6 ensure the electoral college process is preserved as prescribed in the United States
7 Constitution. The study also must include examination of how states report presidential election
8 results and whether states report the results using vote percentages or vote totals. The
9 legislative management shall report its findings and recommendations, together with any
10 legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

11 **SECTION 3. DIRECTIVE TO SECRETARY OF STATE.** The secretary of state shall forward
12 a copy of the enrolled version of this bill to the president of the United States Senate, the
13 speaker of the United States House of Representatives, and each member of the North Dakota
14 congressional delegation.