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2007 HOUSE JUDICIARY

HB 1336

2007 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1336

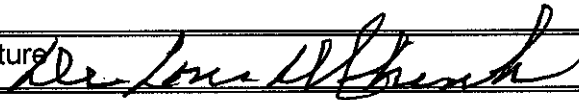
House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: February 7, 2007

Recorder Job Number: 3002, 3007

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on HB 1336

.Rep. Hawken-Sponsor: Called the popular vote bill. It is important to have people involved in the voting process. Currently there are about 174 sponsors in 50 states looking at this bill. In Colorado it passed the Senate in January. It is now in the House. Yesterday in Hawaii in a bipartisan vote it passed their committee 5-0 and in Montana it has gone through the Senate with 9-2 vote out of their committee. I would ask you this morning of being in a government class to open your mind to the ideas and ask questions of Dr. John Koza so that you can support this bill.

Dr. John Koza: Thank you for letting me come here to speak to assure that our presidential candidate who gets the most votes in all 50 states win's the presidency. ND like 48 states awards all its electoral votes to the presidential candidate who gets the most votes inside the state. So called winner takes all vote. Maine and Nebraska award 12 votes by congressional districts so that is a reminder that the states have exclusive and primary to decide how to award their electoral votes. The founding fathers did not put how to electing the president in the Constitution. Instead they left it up to the discussion of the states and the system has

changed a number of times since the first election. Awarding of electoral votes is exclusively a state power and can be changed in any state at any time. Under our bill the state would elect all our electoral votes to the candidate gets the most votes in all 50 states. We are changing the method of counting to state by state or district by district count which is what Maine and Nebraska uses to a single national count. That is the same way every other public official gets elected in the US. Small electoral voting states do not get any attention by the candidates and that does not help us at all. Two thirds of the money and two thirds of the money goes to only into six states. Eighty percent goes into nine states and 99% goes into 16 states so at least 34 or 2/3 of the states are basically not participating in a presidential election. (see attached testimony # 1 & #2)

Rep. Kim Koppelman: Went into detail about the electoral college. If you say we divide our electoral votes we can not do what Nebraska does and say one congressional seat will go to minority candidate. You are asking the people of ND to be subservient to the people of the nation. If this were to pass I think each state would be subservient to whatever the national popular vote.

Dr. John Koza: the state by state process has been set up by each state. I think the candidate with the most votes wins. That should be the case in presidential elections. Ohio the 12th smallest state has 40 electoral votes and they have 11 million people. This 40 electoral votes each and you could balloon that to 80 they still would pay no attention to ND, Rhode Island and Idaho because they would be forgone conclusions and they wouldn't be poled.

Rep. Lawrence Klemin: The winner take all rule just seems like to me it will be still winner take all. It is just that the rule changes because whoever wins the national popular vote takes

all whereas right now, whoever wins the national popular vote in ND takes all. It is still going to be winner take all?

Dr. John Koza: the office is given only to one person. In every other election in the US it is the all the votes in the jurisdiction are added together to determine who gets the office.

Rep. Lawrence Klemm: Wouldn't it be more popular to have the voters of ND decide this rather than the legislature like we are doing?

Dr. John Koza: It has been suggested that a rider be attached that this bill takes affect after the election.

Rep. Lawrence Klemm: Since this country was founded we have had some 50 presidential elections. In three of those we have had the situation you have just described. Two of those happened in the 19th century and the other one was in the year 2000 so overall it has been a very small percentage of the national votes that have happened so wouldn't it appear the system is working pretty well.

Dr. John Koza: No one pays attention to what takes place in two thirds of the states. There are a handful of states that call the shots. They do not pay attention to ND, Vermont, Texas and NY.

Rep. Delmore: Don't you think the popular vote would make a difference in ND. Most of the people on the streets think their vote counted.

Dr. John Koza: Most of the people on the street think they are voting for the candidate and when the election comes around they suddenly realize they weren't.

Rep. Chris Griffin: Why wouldn't ND as a state since we have about five times the influence with three electoral votes; why wouldn't we develop a system since states can decide how to divvy up their electoral votes where we based it on percentage of candidates back to state and

then we could put electoral votes at play to get presidential candidates to come visit and still maintain our more heavily weighted influence.

Dr. John Koza: Colorado actually considered a proportional division in the 2004 ballot. The argument against that was if you divided ND growth proportionally they would be divided 2-1. there is not very many ways to divide it into three. They find New Hampshire because it is a swing state with 4 electoral votes.

Rep. Chris Griffin: When the electoral college was originally devised wasn't part of the point to allow greater representation of the minority factions because the candidates would have to focus on some smaller groups in order to get a majority in states.

Dr. John Koza: That is why we have presidential debates that include Cuba. Because there are Cuban American's that can make the difference in Florida. Cuba is a county we don't trade with, go there, why aren't we discussing Mexico or Canada, who we trade with allot in presidential debates.

Rep. Kim Koppelman: The presidential candidates would come here because of our 3 electoral votes because we would be more important.

Dr. John Koza: No you would not be more important, you would be equally important. That is the point. The Congressional district here would matter just as Hawaii seemed to matter. Every single congressional district would have some importance in the mind of the presidential candidate. Anyone who skipped a bunch of presidential districts would risk being clobbered.

Rep. Kim Koppelman Isn't the reason Hawaii mattered is based on its electoral votes. Not based on its population. They matter more in ND now than those 650,000 population votes.

Dr. John Koza: Follow the money and follow the visits. There is 450 candidate visits they make in a presidential campaign which is almost the same number as congressional districts.

Basically a candidate is going to have to give attention to every district. Probably makes two visits and spends \$2 million in Idaho; probably makes one visit and spends \$1 million in ND. Probably spends a million dollars in one visit to my congressional district inside California because every single vote counts in all those places.

Senator David O'Connell: (see testimony #3)

Opposition:

David Hanson: (see testimony #4) sophomore in high school.

Rep. Delmore: If this works so well, why do you think the states have not adopted anything like that. The people decided we wanted equal representation. I follow your arguments and you have done very well. Do you think there is a disconnect of people thinking their votes count not so much rather than a direct caste vote for the president.

David Hanson: No I don't think so. I think a persons vote is maximized in a smaller pool of voters because when people vote then that is being like an ambassador of the state saying that is what we want and they vote and I think it is a lot more to consider.

Rep. Delmore: You do think minority populations are represented as well in an electoral college as they would be if they had a direct vote?

David Hanson: Yes, I think the minorities are better served under an electoral college.

Rep. Onstad: Lets say we adopt the electoral college by counties. We use the popular vote in each county and then elected our governors. Would you be in favor of that?

David Hanson: Not necessarily because again the states formed the national government and the people formed the city government and the counties, if I understand correctly, the county does not form the state government. The state government is by the people and should be directly represented by the people.

Rep. Onstad: would that not be true that smaller counties would be better served by electoral vote?

David Hanson: Probably so.

Rep. Wolf: When I see the TV screen and it says we are a red state when they have not voted and it says ND was already a red state. I know people who say they don't vote because they don't feel their vote counts.

David Hanson: It would be the same thing if you were running for mayor and your opposition is ahead and that you might as well not vote. No I think there needs to be further education done on who their vote does count.

Rep. Lawrence Klemin: Would you please go over this first attachment and explain it

David Hanson: It is something I found on the internet that I found quite interesting and were entities back then. If candidate A won all the votes and candidate B won all the national popular votes would it be fair that candidate B would become president of 50 states when he only he only won one. I just thought that was kind of interesting way to put it.

Rep. Lawrence Klemin: I think it does show the possibility of how one candidate could win 526 of the Electoral College votes and still lose the election because of an overwhelming majority of one state.

No more testimony on HB 1336.

Hearing closed.

Chairman DeKrey: Reopened the hearing on HB 1336.

Do Pass Motion Made By Rep. Delmore Seconded By Rep. Meyer

Discussion:

Chairman DeKray: I put my name on it for the same reason and I will give you a chance to change my mind. I think the kid David Hanson made more sense than the doctor from

California. I have a hard time with California money from a national organization coming into ND to tell us we aren't smart enough to know the electoral vote works.

Rep. Kim Koppelman: I plan to resist this motion and I agree with the discussion has been good and that is part of the process, but rejection of this process is also part of the process.

Rep. Boehning: We are spending a billion dollars and I think it is not good.

Rep. Delmore: One of the things that stood out was the pole that showed 70% of the American public thinks it is very important and I think we, as elected officials need to carry on that dialogue. 2. If we ignore the presidential primary I don't think it would have been as much fun when we really had things going I don't think the interest would have been there. 3. I do want you to know there are kids in public schools that are in school today and are equally articulate.

Rep. Kim Koppelman: I am proud of public schools, but I think that sometimes there is the opposite thing that we are all worried about these kids being home schooled because they are not in public schools and would not be the education they need. I did not know David was home schooled.

Rep. Lawrence Klemin: If we follow this we would basically be saying that our elections would be controlled by the 6 most popular states. Among which number one is California so they are trying to convince the small states to do it our way?

Rep. William Kretschmar My mother home schooled me, but I had to go to public schools. I think we should go along with this bill since then it would be by popular vote like all the other voting for public positions.

Rep. Kim Koppelman: No other election except for president works this way. I was very impressed with young David. The federal government is a creature of the states, not the other way around. Likewise, the counties and other political subdivisions within our state are also

creatures of the state. The State is the fundamental political subdivision and entity in our nation and that is why every state has two Senators regardless of how big or how small. States deserve a certain degree of representation through our system of government. Also why the House of Representatives; each state is entitled to one representative no matter how small the population, the Electoral College reflects that. Rep. Lawrence Klemin did highlight in one of the handouts David passed out and the idea is true when they run neck and neck that one state could determine the election for the president of all 50. Likewise, population centers, New York, LA, Chicago and Houston would carry more electoral clot under this system. If you think it is OK to elect the president you think the Electoral College couldn't be straighter forward, why don't we do the same thing for the governor of our own state? The point is why we not do that flip flopping around.

Rep. Kim Koppelman In the USA the way our nation and our system of government is made up the state is a very unique entity. That is why cities are not divided into wards that elect the mayor and state are not divided into counties that collectively deal elect the governor by popular vote because it is a different kind of political subdivision in the states.

Rep. Delmore: If we follow that through maybe we should have each county have one Senator and do the House of Representatives the other way. I would maintain it isn't the state that elected the president because of electoral votes. It is the people and their vote does count. When we get away from the people having a say, I think we need to go back to the 70% of the people who say I want to elect the president of the US and I think that is why we have the interest in presidential elections.

Rep. Onstad: Discussed electoral voting. Rep. William Kretschmar said this county has 3,000 people and Fargo has more people and does not take me a long time to figure out if Fargo

wants something Fargo will always be heard because there are more of them than in smaller areas. I think this method would make sure people knew their vote counted.

Vote: 5 Yes 9 No 0 Absent Do Pass Motion Failed

Do Not Pass Motion Made By Rep. Kim Koppelman Seconded By Rep. Boehring

Vote 9 Yes 5 No 0 Absent Carrier: Rep. Kim Koppelman

Date: 2-7-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1336

House JUDICIARY

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Rep. Delmore

Seconded By

Rep. Meyer

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey		✓	Rep. Delmore	✓	
Rep. Klemin		✓	Rep. Griffin		✓
Rep. Boehning		✓	Rep. Meyer	✓	
Rep. Charging		✓	Rep. Onstad	✓	
Rep. Dahl		✓	Rep. Wolf	✓	
Rep. Heller		✓			
Rep. Kingsbury		✓			
Rep. Koppelman		✓			
Rep. Kretschmar	✓				

Total (Yes) 5 No 9

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

For

Date: 2-2-07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1336

House JUDICIARY

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Not Pass

Motion Made By

Rep. Koppelman

Seconded By

Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore		✓
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Meyer		✓
Rep. Charging	✓		Rep. Onstad		✓
Rep. Dahl	✓		Rep. Wolf		✓
Rep. Heller	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar		✓			

Total (Yes) 9 No 5

Absent 0

Floor Assignment

Rep. Koppelman

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1336: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO NOT PASS
(9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1336 was placed on the
Eleventh order on the calendar.

2007 TESTIMONY

HB 1336

National Popular Election of the President
National Popular Vote!
www.NationalPopularVote.com

February 6, 2007

"Agreement Among the States to Elect the President by Nationwide Popular Vote"

The National Popular Vote bill (HB 1336) would guarantee that the presidential candidate who receives the most votes in all 50 states will win the Presidency. This bill is sponsored by Representatives Kathy Hawken, Duane L. DeKrey, and Lois Delmore and Senators Tom Fischer, Joel C. Heitkamp, and David O'Connell.

North Dakota currently uses the so-called winner-take-all rule that awards all of its electoral votes to the presidential candidate who receives the most popular votes in the state.

The main shortcoming of the current system of electing the President is that presidential candidates have no reason to poll, visit, advertise, organize, campaign, or consider the concerns of voters of states that they cannot possibly win or lose. Presidential candidates do not poll in North Dakota, do not visit North Dakota, and do not need to worry about North Dakota issues in order to be elected to the Presidency. Voters in two thirds of the states are similarly disenfranchised. Candidates concentrate their attention on a very small handful of closely divided "battleground" states. Presidential candidates concentrate over two-thirds of their advertising money and campaign visits in just six states, and over 99% of their advertising money in just 16 states. The spectator states in presidential elections include 12 of the 13 least populous states (all but New Hampshire); and a majority of the other states.

A second shortcoming of the current system is that a candidate can win the Presidency without winning the most popular votes nationwide. A shift of 60,000 votes in Ohio would have elected Kerry as President—even though President Bush was ahead by 3.5 million votes.

Twelve of 13 smallest states are almost totally ignored in presidential elections because they are politically non-competitive. Idaho, Montana, Wyoming, North Dakota, South Dakota, and Alaska regularly vote Republican, while Rhode Island, Delaware, Hawaii, Vermont, Maine, and DC regularly vote Democratic. These 12 states together contain 11 million people. Because of the two electoral-vote bonus that each state receives, the 11 million people in these 12 non-competitive small states together possess 40 electoral votes. However, the two-vote bonus is an entirely illusory advantage. Ohio has 11 million people and has "only" 20 electoral votes. As we all know, the 11 million people in Ohio (and Ohio issues) are the center of attention in presidential campaigns, whereas the 11 million people in the small states are utterly irrelevant. Nationwide election of the President would make all of the voters of the 12 smallest states as important as an Ohio voter.

The Founding Fathers gave the states exclusive and plenary (complete) control over the manner of awarding of their electoral votes. The states may change their state laws concerning the awarding of their electoral votes at any time. The winner-take-all rule is not in the U.S. Constitution. It was used by only 3 states in the nation's first presidential election. Maine and Nebraska currently award electoral votes by congressional district.

Under the National Popular Vote bill, all of the state's electoral votes would be awarded to the presidential candidate who receives the most popular votes in all 50 states and the District of Columbia. The bill would take effect only when enacted, in identical form, by states possessing a majority of the electoral votes—that is, enough electoral votes to elect a President (270 of 538).

70% of the public has long supported nationwide election of the president.

The National Popular Vote bill is sponsored by 174 legislators from 45 states. It passed the Colorado Senate on January 17, 2007, and is now in the Colorado House of Representatives.

Yours truly,

A handwritten signature in cursive script that reads "John Koza".

Dr. John R. Koza

Phone: 650-941-0336

Email: koza@NationalPopularVote.com

2

National Popular Election of the President
National Popular Vote!
www.NationalPopularVote.com

January 15, 2007

"Agreement Among the States to Elect the President by Nationwide Popular Vote"

The proposed "Agreement Among the States to Elect the President by Nationwide Popular Vote" is a constitutional and politically practical way to implement nationwide popular election of the President—a goal supported by an overwhelming majority of Americans (70% in recent polls).

This proposed interstate compact is described in our 620-page book *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote*. The National Popular Vote bill currently has legislative sponsors in 47 states.

The *New York Times* endorsed National Popular Vote's plan by calling it an "innovative new proposal" and "an ingenious solution." The editorial urged that "Legislatures across the country should get behind it." As the *New York Times* said (March 14, 2006):

"The Electoral College distorts presidential campaigns. Candidates have no incentive to campaign in, or address the concerns of, states that reliably vote for a particular party. ... According to estimates by National Popular Vote, the bipartisan coalition making the new proposal, ... only 13 states, with 159 electoral votes, were ... battleground states in 2004. As a result, campaigns and national priorities are stacked in favor of a few strategic states. Ethanol fuel, a pet issue of Iowa farmers, is discussed a lot. But issues of equal concern to states like Alabama, California, New York and Indiana are not."

The *Los Angeles Times* endorsed the plan on June 5, 2006. The *Sacramento Bee* endorsed the bill saying "The governor and senators can get this process rolling in other states by acting this session" (June 3m 2006). The *Chicago Sun Times* called National Popular Vote's plan "thinking outside the box" and said "It's time to make the change with this innovative plan" (March 1, 2006). The *Minneapolis Star-Tribune* said "It's a lot to ask the Legislature to do the right thing and endorse the new compact. But it really should. So should other states—both red and blue—join, for the sake of a better democracy" (March 27, 2006). The *Denver Post* said that it is "time to rethink presidential elections" (April 19, 2006). Common Cause and Fair Vote (The Center for Voting and Democracy) have also endorsed the plan.

The National Advisory Board of National Popular Vote includes former congressmen John Anderson (R-Illinois and later independent presidential candidate), John Buchanan (R-Alabama—the first Republican elected to represent Birmingham), Tom Campbell (R-California), and Tom Downey (D-New York), and former Senators Birch Bayh (D-Indiana), David Durenberger (R-Minnesota), and Jake Garn (R-Utah).

SHORTCOMINGS OF THE CURRENT SYSTEM

The major shortcoming of the current system is that voters in two thirds of the states are effectively disenfranchised in presidential elections because they do not live in closely divided "battleground" states. Under the winner-take-all rule, presidential candidates have no reason to poll, visit, advertise, organize, or campaign in states that they cannot possibly win or lose.

Presidential candidates concentrate over two-thirds of their advertising money and campaign visits in just five very close states, and over 99% of their advertising money in just 16 battleground states. The spectator states in presidential elections include six of the nation's 10 most populous states (California, Texas, New York, Illinois, New Jersey, and North Carolina), 12 of the 13 least populous states (all but New Hampshire), and a majority of the other states.

As Charlie Cook reported in 2004:

"Senior Bush campaign strategist Matthew Dowd pointed out yesterday that the Bush campaign hadn't taken a national poll in almost two years; instead, it has been polling 18 battleground states."

Kerry similarly pursued an 18-state strategy in 2004.

Another shortcoming of the current system is a candidate can win the Presidency without winning the most popular votes nationwide. Under the winner-take-all rule that is currently used by 48 states, all of a state's electoral votes are awarded to the candidate winning the state. A shift of 60,000 votes in Ohio in 2004 would have given Kerry a majority of the electoral votes, despite President Bush's 3,500,000-vote lead in the nationwide popular vote. A shift of a handful of votes in one or two states would have elected the second-place candidate in five of the last 12 presidential elections. The second-place candidate was elected in 2000, 1888, 1876, and 1824.

Both shortcomings have a single cause—the states' use of the winner-take-all rule. The winner-take-all rule is not mentioned in the U.S. Constitution. It is not a federal law. It was not the choice of the Founding Fathers and it was used by only three states in the nation's first presidential election. The winner-take-all rule exists only in state law. States have the power to change their own state laws at any time.

HOW THE PROPOSED INTERSTATE COMPACT WOULD WORK

At the present time, the Electoral College reflects the voters' *state-by-state* choices for President in 48 states, while reflecting the voters' *district-by-district* choices in Maine and Nebraska. The United States can have nationwide popular election of the President if the states reform the Electoral College so that it reflects the voters' *nationwide* choice. This means changing the state laws that establish the state-level winner-take-all rule (or the district-level winner-take-all rule).

Under the state legislation proposed by National Popular Vote, the popular vote counts from all 50 states and the District of Columbia would be added together to obtain a national grand total for each presidential candidate. That is, state election officials would simply perform, in an official manner, the adding-up of the nationwide vote for President that is now performed by almanacs and news media. Then, state elections officials in all states participating in the plan would award their electoral votes to the presidential candidate who receives the largest number of popular votes in all 50 states and the District of Columbia.

Under the proposal, no state would act alone in offering to award its electoral votes to the nationwide winner. Instead, the National Popular Vote plan would take effect only when the plan has been enacted by states collectively possessing a majority of the electoral votes—that is 270 of the 538 electoral votes. This threshold guarantees that the presidential candidate receiving the most popular votes nationwide would win enough electoral votes in the Electoral College to become President. The 270-vote threshold corresponds essentially to states representing a majority of the people of the United States. The result would be that every vote in all 50 states and the District of Columbia is equally important in presidential elections.

The National Popular Vote plan is an interstate compact—a type of state law authorized by the U.S. Constitution that enables states to enter into a legally enforceable contractual obligation to undertake agreed joint actions. There are hundreds of interstate compacts, and each state in the United States belongs to dozens of compacts. Examples of interstate compacts include the Colorado River Compact (allocating water among seven western states), the Port Authority (a two-state compact involving New York and New Jersey), and the Multi-State Tax Compact. Some compacts involve all 50 states and the District of Columbia. Interstate compacts are generally subject to congressional consent.

As an additional benefit, National Popular Vote's plan would eliminate the (unlikely) possibility of faithless presidential electors. The presidential candidate receiving the most popular votes in all 50 states and the District of Columbia would receive a guaranteed majority of at least 270 electoral votes coming from the states enacting the compact, and the nationwide winner candidate would receive additional electoral votes from whatever non-compacting states happened to be carried by the nationwide winner. Thus, in practice, the presidential candidate receiving the most popular votes nationwide would end up with about three-quarters of the electoral votes—more than enough to eliminate the remote possibility that an unfaithful elector could affect the outcome.

Because the presidential candidate receiving the most popular votes nationwide would be guaranteed enough electoral votes in the Electoral College to become President, another benefit of the National Popular Vote plan is that it would eliminate the possibility of a presidential election being decided by the House of Representatives (where each state would have one vote) and the vice-presidential election being decided by the U.S. Senate.

Nationwide election of the President would reduce the possibility of close elections and recounts. The current system regularly manufactures artificial crises even when the nationwide popular vote is not particularly close. Even though President Bush was 3.5 million votes ahead of Kerry in 2004 on election night, the nation had to wait until Wednesday to see if Kerry would dispute Ohio's all-important 20 electoral votes. A shift of 60,000 votes in Ohio in 2004 would have given Kerry a majority of the electoral votes, despite President Bush's 3,500,000-vote lead in the nationwide popular vote. Similarly, the disputed 2000 presidential election was an artificial crisis created by one candidate's 537-vote lead in Florida in an election in which the other candidate had a 537,179-vote lead nationwide (1,000 times greater). In the nation's most controversial presidential election, Tilden's 3.1%-lead in the popular vote in 1876 was greater than Bush's substantial 2.8%-lead in 2004; however, a constitutional crisis was created by very small popular-vote margins in four states (889, 922, 1,050, and 1,075). With a single massive pool of 122,000,000 votes, there is less opportunity for a close outcome or recount (and less incentive for fraud) than with 51 separate smaller pools, where a few hundred popular votes can decide the Presidency.

To prevent partisan mischief between the November voting by the people and the mid-December meeting of the Electoral College, the compact contains a six-month blackout period if any state ever wishes to withdraw from the compact. The blackout period starts on July 20 of each presidential election year and runs through the January 20 inauguration. Interstate compacts are contracts. It is settled compact law and settled constitutional law that withdrawal restrictions—very common in interstate compacts—are enforceable because the U.S. Constitution prohibits a state from impairing any obligation of contract.

Under existing law in 48 of the 50 states, the state's electoral votes are cast by a group of presidential electors who were nominated by the political party whose presidential candidate carried their particular state. People nominated for this position are almost invariably long-time party officials or activists. Under the proposed compact, the 270 or more electoral votes possessed by the states belonging to the compact would be cast by a group of presidential electors nominated by the political party whose candidate won the nationwide vote in all 50 states and the District of Columbia. This group of electors—sufficient to guarantee the election of a President—would reflect the will of the voters nationwide. None of these presidential electors would be voting contrary to his or her political inclinations or conscience. Instead, the 270 (or more) presidential electors associated with the candidate who won the nationwide vote would simply vote for their own party's presidential nominee (i.e., the nationwide choice of the voters from all 50 states and the District of Columbia). This approach implements the desire of an overwhelming majority of Americans (over 70% in recent polls), namely that the candidate who gets the most votes nationwide should become President.

Some may argue that voters would be uncomfortable with the electoral votes of their state being cast for a candidate that won the national popular vote—but not necessarily their state's vote. However, the public is not attached to the current system. Indeed, less than 20% of the public supports it. A nationwide popular vote for President inherently means that the winner would no longer be determined on the basis of which candidate carries individual states but, instead, on the basis of which candidate receives the most citizen votes in all 50 states and the District of Columbia. All of the 270 (or more) presidential electors from the states enacting the compact will be from the political party associated with the nationwide winner. When these electors cast their votes for the candidate who received the most votes nationwide, they will be implementing the method of electing the President that has long been supported by an overwhelming majority of Americans; the method that the people's elected representatives have enacted into law; and the method under which the campaign will have been conducted.

THE STATES' EXCLUSIVE POWER TO AWARD THEIR ELECTORAL VOTES

The manner of conducting presidential elections is covered in Article II, Section 1, Clause 2 of the U.S. Constitution.

“Each State shall appoint, in such Manner **as the Legislature thereof may direct**, a Number of Electors....” (emphasis added).

The constitutional wording “as the Legislature thereof may direct” contains no restrictions. It does not encourage, discourage, require, or prohibit the use of any particular method for awarding the state's electoral votes.

In particular, the U.S. Constitution does not mention two of the most prominent present-day features of American presidential elections—the winner-take-all rule (awarding all of a state's electoral votes to the candidate winning the state) and citizen voting for President. These features were not part of the original Constitution, nor were they installed by any subsequent federal constitutional amendment. Instead, these features were established by state laws that were enacted, over a period of decades, on a state-by-state basis.

The winner-take-all rule was used by only three states when the Founding Fathers went back to their states to organize the nation's first presidential election in 1789. Today, it is used by 48 of the 50 states. A federal constitutional amendment was not required, nor used, to enact the winner-take-all rule in these 48 states. The 48 states simply used the power that the Founding Fathers gave them to enact this particular method for awarding their electoral votes. The states may change their decisions concerning the winner-take-all rule, at any time, by enacting a different state law.

Only half the states participating in the nation's first presidential election gave voters a voice in presidential elections, whereas no state legislature has chosen the state's presidential electors since 1876. A federal constitutional amendment was not required, nor used, to confer the presidential vote on the people. States simply enacted state laws implementing this concept.

The fact that Maine enacted a congressional-district system in 1969 (and Nebraska did the same in 1992) is a reminder that the manner of awarding electoral votes is entirely a matter of state law. Maine and Nebraska did not need a federal constitutional amendment to modify the winner-take-all rule because the winner-take-all rule was never part of the U.S. Constitution in the first place. The legislatures of Maine and Nebraska simply used the power that the Founding Fathers gave the states to decide how to award their electoral votes.

The U.S. Supreme Court has repeatedly characterized the authority of the states over the manner of awarding their electoral votes as "supreme" and "plenary" and "exclusive."

In short, there is nothing in the U.S. Constitution that needs to be changed in order to implement nationwide popular vote of the President. This change can be accomplished in the same manner as the current system was originally adopted—namely the states using their exclusive and plenary power to decide the manner of awarding their electoral votes.

NATIONWIDE POPULAR ELECTION WILL GIVE A VOICE TO SMALL STATES

It is sometimes asserted that the current system helps the nation's least populous states. It is also sometimes asserted that the small states confer a partisan advantage on one political party. In fact, neither statement is true.

Twelve of 13 smallest states are almost totally ignored in presidential elections because they are politically non-competitive. Idaho, Montana, Wyoming, North Dakota, South Dakota, and Alaska regularly vote Republican, and Rhode Island, Delaware, Hawaii, Vermont, Maine, and DC regularly vote Democratic. These 12 states together contain 11 million people. Because of the two electoral-vote bonus that each state receives, the 12 non-competitive small states have 40 electoral votes. However, the two-vote bonus is an entirely illusory advantage to the small states. Ohio has 11 million people and has "only" 20 electoral votes. As we all know, the 11 million people in Ohio are the center of attention in presidential campaigns, while the 11 million people in the 12 non-competitive small states are utterly irrelevant. Nationwide election of the President would make each of the voters in the 12 smallest states as important as an Ohio voter.

The fact that the bonus of two electoral votes is an illusory benefit to the small states has been widely recognized by the small states for some time. In 1966, Delaware led a group of 12 predominantly low-population states (North Dakota, South Dakota, Wyoming, Utah, Arkansas, Kansas, Oklahoma, Iowa, Kentucky, Florida, Pennsylvania) in suing New York in the U.S. Supreme Court, arguing that New York's use of the winner-take-all effectively disenfranchised voters in their states. The Court declined to hear the case (presumably because of the well-established constitutional provision that the manner of awarding electoral votes is exclusively a state decision). Ironically, defendant New York is no longer a battleground state (as it was in the 1960s) and today suffers the very same disenfranchisement as the 12 non-competitive low-population states. A vote in New York is, today, equal to a vote in any of these small non-competitive states—all are equally worthless and irrelevant in presidential elections.

NATIONWIDE POPULAR ELECTION WILL MEAN A 50-STATE CAMPAIGN

In a nationwide vote, presidential campaigns would become 50-state campaigns. Neither Democrats nor Republicans could afford to ignore the concerns and interests of voters in spectator states such as California. The Democratic Party would suddenly care about whether it won California by 55% or 60% and would therefore campaign in California. Similarly, the Republican Party would have to campaign in California in order to win as many popular votes as possible.

Although it is sometimes conjectured that a national popular election would focus only on big cities, it is clear that this would not be the case. Evidence as to how a nationwide presidential campaign would be run can be found by examining the way presidential candidates *currently* campaign *inside* battleground states. Inside Ohio or Florida, the big cities do not receive all the attention, and they certainly do not control the outcome. Because every vote is equal inside Ohio or Florida, presidential candidates avidly seek out voters in small, medium, and large towns. The itineraries of presidential candidates in battleground states (and their allocation of other campaign resources) demonstrate what every gubernatorial or senatorial candidate in Ohio and Florida already knows—namely that when every vote matters, the campaign must be run in every part of the state.

Further evidence of the way a nationwide presidential campaign would be run comes from national advertisers who seek out customers in small, medium, and large towns of every small, medium, and large state. A national advertiser does not write off Indiana or Illinois merely because a competitor has an 8%-edge in sales in those states. Moreover, a national advertiser enjoying an 8%-edge over its competitors does not stop trying to make additional sales in Indiana or Illinois. National advertisers go after every single possible customer, regardless of where the customer is located.

Although no one can accurately predict how a presidential campaign would be run if every vote were equal throughout the United States, it is clear that candidates would have to run a 50-state campaign. In round numbers, both major-party candidates (and their closely allied supporting groups) had about a half billion dollars at their disposal in 2004 (that is, an average of about \$1 million for each of the nation's 435 congressional districts). Candidates have time for about 450 campaign visits during a three-month presidential campaign (that is, an average of about one visit in each of the nation's 435 congressional districts).

Under a nationwide vote, each presidential campaign would have to reallocate its limited campaigning resources over all the nation's 435 congressional districts. Because every vote would be equally important throughout the United States under the National Popular Vote plan, candidates would allocate, on average, one visit to each congressional district and \$1,000,000. Thus, a small state such as Idaho with two congressional districts could reasonably expect two visits from both the Democratic and Republican candidates. Currently, of course, Idaho receives no attention from either party because the Republican candidate has nothing to gain, and the Democratic candidate has nothing to lose, in Idaho. Although Idaho would undoubtedly continue to deliver a statewide majority to the Republican presidential candidate, every vote in Idaho would suddenly matter to both the Democrat and the Republican candidates. It would be folly for John Kerry to write off Idaho because he would care if he lost Idaho by 227,000 versus some smaller or larger number. Similarly, it would be folly for George Bush to take Idaho for granted because he would care if he won by 227,000 versus some larger or smaller number. As the *Idaho State Journal* editorialized in 2004,

"As we enter the home stretch of the quadrennial horse race known as the presidential election, it's time to remember that this is an election for the president of the United States of America—all 50 states, not an election for the president of the Swing States of America."

NATIONAL POPULAR VOTE EXPECTS TO HAVE SPONSORS IN ALL 50 STATES FOR THE 2007 LEGISLATIVE SESSION

Since National Popular Vote's initial press conference in February 2006, the proposed interstate compact has passed in the Colorado Senate (April 17), the California Assembly (May 30), and the California Senate (August 22). The bill was vetoed in California on September 30.

The bill was filed during 2006 in six states.

In New York, five Republican Assembly members introduced National Popular Vote's bill (A11563). The sponsors include Assemblyman Fred W. Thiele, Jr. (Republican, Independence, Working Families—Sag Harbor); Assemblyman Jim Bacalles (Republican, Conservative—Corning); Assemblyman Joe Errigo (Republican, Conservative—Conesus); Assemblyman Andrew Raia (Republican, Conservative, Independence, working Families—East Northport); Assemblywoman Teresa Sayward (Republican, Independence, Conservative—Willsboro).

In the Illinois Senate, the bill (SB 2724) was sponsored by Senators Jacqueline Collins (D), Kirk W. Dillard (R and Du Page County Republican Party Chair), James T. Meeks (I). The Senate bill now has seven sponsors. In the Illinois House, the bill (HB 5777) was sponsored by Representatives Robert S. Molaro (D) and Jim Durkin (R). The House bill now has 29 sponsors.

In Louisiana, the National Popular Vote bill (HB 927) was approved by the House and Governmental Affairs Committee on May 10.

On April 17, the Colorado State Senate passed the National Popular Vote plan (SB 223). Among the Senators voting for the bill were original Senate sponsors Ken Gordon (D), John Evans (R), and Lew Entz (R).

In Missouri, the bill (HB 2090) was sponsored by Representative Robert Johnson (R) and Representative Jeff Roorda (D). An informational hearing was held on April 25.

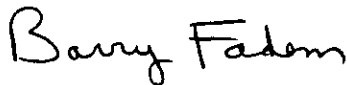
In California, the bill (AB 2948) was sponsored by Assembly members Tom Umberg (chair of the Assembly Elections Committee), Mervyn M. Dymally, John Laird, Loni Hancock, Mark Leno, and Ted W. Lieu and Senator Jack Scott. The bill was managed in the California Senate by Senator Debra Bowen (who was elected California Secretary of State in November 2006).

The National Popular Vote bill currently has legislative sponsors in 47 states. It is expected that the bill will have sponsors in all 50 state legislatures in time for the 2007 legislative sessions.

ADDITIONAL INFORMATION ABOUT THE NATIONAL POPULAR VOTE BILL

Additional information is available at www.NationalPopularVote.com. The National Popular Vote bill is described in detail in our 620-page book *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote*. The book is available to be read or downloaded, for free, at www.every-vote-equal.com. Chapter 6 of the book describes the proposed interstate compact in detail.

Yours truly,



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The New York Times

Drop Out of the College

New York Times Editorial

March 14, 2006

The Electoral College is an antidemocratic relic. Everyone who remembers 2000 knows that it can lead to the election of the candidate who loses the popular vote as president. But the Electoral College's other serious flaws are perhaps even more debilitating for a democracy. It focuses presidential elections on just a handful of battleground states, and pushes the rest of the nation's voters to the sidelines.

There is an innovative new proposal for states to take the lead in undoing the Electoral College. Legislatures across the country should get behind it.

Both parties should have reason to fear the college's perverse effects. In 2000, the Democrats lost out. But in 2004, a shift of 60,000 votes in Ohio would have elected John Kerry, even though he lost the national popular vote decisively.

Just as serious is the way the Electoral College distorts presidential campaigns. Candidates have no incentive to campaign in, or address the concerns of, states that reliably vote for a particular party. In recent years, the battleground in presidential elections has shrunk drastically. In 1960, 24 states, with 327 electoral votes, were battleground states, according to estimates by National Popular Vote, the bipartisan coalition making the new proposal. In 2004, only 13 states, with 159 electoral votes, were. As a result, campaigns and national priorities are stacked in favor of a few strategic states. Ethanol fuel, a pet issue of Iowa farmers, is discussed a lot. But issues of equal concern to states like Alabama, California, New York and Indiana are not.

The Electoral College discourages turnout because voters in two-thirds of the nation know well before Election Day who will win their states. It also discriminates among voters by weighing presidential votes unequally. A Wyoming voter has about four times as much impact on selecting that state's electors as a California voter does on selecting that state's.

The answer to all of these problems is direct election of the president. Past attempts to abolish the Electoral College by amending the Constitution have run into difficulty. But National Popular Vote, which includes several former members of Congress, is offering an ingenious solution that would not require a constitutional amendment. It proposes that states commit to casting their electoral votes for the winner of the national popular vote. These promises would become binding only when states representing a majority of the Electoral College signed on. Then any candidate who won the popular vote would be sure to win the White House.

The coalition is starting out by trying to have laws passed in Illinois and a few other states. Americans are rightly cautious about tinkering with mechanisms established by the Constitution. But throughout the nation's history, there have been a series of reforms affecting how elections are conducted, like the ones that gave blacks and women the vote and provided for the direct election of United States senators. Sidestepping the Electoral College would be in this worthy tradition of making American democracy more democratic.

CHICAGO SUN-TIMES

suntimes.com

We vote for a fairer way to decide national elections

Chicago Sun-Times editorial

March 1, 2006

Calls to reform or abolish the Electoral College hit a fever pitch after the 2000 presidential election, when Al Gore won the popular tally but didn't have enough votes in the right states to carry the electoral vote. That call quieted somewhat after the 2004 election, when President Bush won the popular vote but still could have lost the election if John Kerry had won Ohio. Despite interest in reform, nothing has happened, mostly due to the difficulty in amending the Constitution.

Now a bipartisan commission, whose members include former Rep. John Anderson (R-Ill.) and former Sen. Birch Bayh (D-Ind.), has proposed an idea to retain the Electoral College while still ensuring it reflects the will of the majority of voters. The Sun-Times News Group backs the concept and applauds the National Popular Vote group for thinking outside the box.

The group's plan is to get enough states to agree to give all their electoral votes to the national vote winner, regardless of the results in their individual states. Under the proposal, each state would pass laws to change the way their electoral votes are awarded, a process the Constitution leaves for the states to set. They would also enter an interstate compact with other states that make the same change, agreeing that the new system won't take effect until states representing 270 electoral votes -- the number needed to carry the Electoral College -- have joined.

In Illinois, the plan is backed by a group that includes state Senators Jacqueline Collins, a Chicago Democrat, and Kirk Dillard, a Hinsdale Republican and chairman of the DuPage County Republican Party.

Using such a system in the last election would have meant Bush won all of Illinois' electoral votes, even though Kerry easily carried the state. If that sounds strange, it's no stranger than Illinois and other populous states being virtually ignored by both parties during the last campaign, since one candidate or the other had them locked so early. That likely hurt the turnout in those noncompetitive states, affecting elections further down the ticket.

What of awarding electoral votes by the top vote-getter in each congressional district, as is currently done in Nebraska and Maine? That would simply set up a situation where candidates concentrate on a small number of battleground districts, because, thanks to gerrymandering, most districts are noncompetitive.

Republicans may be hardest to persuade to support this plan, over fears that large urban centers that tend to vote Democratic will dominate elections. But that wasn't an impediment to Bush's re-election. And polls show most Americans want the president to be elected by the popular vote. It's time to make the change with this innovative plan.

This editorial represents the view of the Sun-Times News Group of 100 newspapers in the Chicago metro area.

States join forces against electoral college

A piecemeal approach may be the only way to kill the anachronistic institution

Los Angeles Times Editorial

June 5, 2006

A PROPOSED EXPERIMENT with majority rule has generated plenty of naysayers who apparently think that some nations are simply too immature to let people directly choose their own leaders. But we say the United States is ready for real democracy.

The experiment is the National Popular Vote campaign, which intends to undermine the Constitution's anachronistic Electoral College. If the campaign succeeds, future presidents will take office only if they win the popular vote nationwide.

The ingenious scheme was developed by John R. Koza, a Stanford professor who also invented the scratch-off lottery ticket. It calls on state legislatures to pass a measure dictating that all the electoral votes from that state go to the winner of the national popular vote. It goes into effect only if enough states approve it to represent a majority of the electoral votes. In other words, if states that represent at least 270 of the 538 electoral votes all approve the measure, the winner of the popular vote nationwide would automatically win the presidency. It thus renders the Electoral College moot without eliminating it.

This kind of end run is necessary because the only way to get rid of the Electoral College entirely is via a constitutional amendment, which would be nearly impossible to pass. Enough small states benefit from the current system to block an amendment. The beauty of this approach is that each state is constitutionally allowed to allot its electoral votes as it sees fit. The measure was approved by California's Assembly on Tuesday and is pending in four other states; backers hope to get it before all 50 states by January.

Anyone wondering why he should care about the Electoral College need look no further than the 2000 election, when George W. Bush won the presidency despite getting about half a million fewer votes than Al Gore. If that makes conservatives think they should be thankful that the majority doesn't always rule in the United States, they should think again. The same thing nearly happened in reverse in 2004. If John Kerry had picked up a mere 60,000 more votes in Ohio, he would have won — even though Bush took in 3 million more votes overall.

The Electoral College doesn't skew just election results; it skews elections. Candidates know they don't have to campaign in states that either clearly favor them or clearly don't; they have to focus only on swing states. In the 2004 campaign, Bush and Kerry spent a great deal of time brushing up on agricultural policy and other issues of vital concern in Iowa, while ignoring matters important to people in states such as California, Texas and New York.

Opponents argue that the current system ensures that smaller states continue to have a say in setting national policy. But the U.S. Senate already gives Delaware every bit as much clout as California. Any method besides majority vote empowers some citizens at the expense of others and makes the president beholden to minority interests.

At its inception, the United States was, well, a union of states. But it is now one nation, and our president should be elected by the citizens of that nation, not by its constituent states. To argue otherwise is to say that some Americans should have more power to elect a president than others simply because of where they live. Remember, all men are created equal. Including Californians and New Yorkers.

<http://www.latimes.com/news/printedition/opinion/la-ed-college05jun05,1,6822980.story>

StarTribune.com

Minneapolis - St. Paul, Minnesota

How to drop out of the Electoral College: There's a way to ensure top vote-getter becomes president

Editorial—Minneapolis Star Tribune
March 27, 2006

This country could form a more perfect union by accepting a novel idea: that the president of the United States should be elected by the people of the United States.

That's not the way it's done, of course, and, given the Constitution's enshrinement of the Electoral College, things aren't likely to change. To quit the college would take approval of two-thirds of both houses of Congress and three-quarters of state legislatures, so fuggedaboudit.

But now comes a gaggle of bipartisan reformers with a cheeky idea worth considering. What if legislatures, one by one, entered their states into an interstate compact under which members would agree to award their electoral votes to the winner of the national popular vote? The compact would kick in only when enough states had joined it to elect a president—that is, when a majority of the 538 electoral votes were assembled. As few as 11 states could ensure that the candidate with the most popular votes nationally would win the presidency. As a result, the Constitution and the Electoral College would stay intact, but the college's fangs would be removed.

That approach would be more democratic than current practice. Recall that Al Gore lost the 2000 election to George W. Bush despite getting a half-million more popular votes, and that Bush nearly lost the 2004 election despite getting 3 million more popular votes (a shift of only 60,000 votes in Ohio would have thrown the election to John Kerry). So, both parties have reason to fear the college's distortions.

That the Electoral College has “worked” in all but one election since 1888 isn't a good enough reason to stay with the status quo. The college has a perverse impact on campaigns. With no incentive to compete in states that are predictably red or blue, candidates concentrate on the battleground states—only 13 of them in 2004, down from 24 in 1960. That's not the national campaign voters deserve. In the last election, 92 percent of campaign events took place in just 13 states, which also absorbed 97 percent of advertising during the campaign's final month. Three dozen red and blue states as large as California, New York and Texas and as small as Delaware, Utah and Wyoming were mere spectators.

Now that Minnesota is a battleground getting lots of attention, it's a lot to ask the Legislature to do the right thing and endorse the new compact. But it really should. So should other states—both red and blue—join, for the sake of a better democracy.

The Sacramento Bee

Editorial: Rx for U.S. elections

States can assure the popular vote rules

Saturday, June 3, 2006

The election of the U.S. president should reflect the directly expressed will of the American people. But it doesn't.

The current Electoral College system can produce perverse results: A candidate can lose the popular vote and win the Electoral College vote and, thus, the presidency. That has happened several times in American history, most recently in 2000. With the nation so closely divided politically, this is likely to be an ongoing problem, undermining the legitimacy of our presidential elections.

It doesn't have to be that way.

Polls for the last 30 years have shown that Americans overwhelmingly support direct election of the president, but Congress hasn't budged on a constitutional amendment.

A new campaign, "National Popular Vote," spearheaded by several former members of Congress, including California's Tom Campbell (most recently Gov. Arnold Schwarzenegger's finance director), has a creative way to get the same result.

The campaign uses an old mechanism -- an interstate compact -- to achieve the direct election of the president. The idea is modeled on existing interstate compacts, such the Colorado River Compact, which divides water among seven Western states. The compact depends on states changing their own rules for dividing up their electoral votes.

We'd prefer a constitutional amendment simply abolishing the Electoral College, but this state-by-state reform is an achievable second-best solution to a defective product that even the Founding Fathers regarded wearily and warily.

The strongest arguments at the 1787 Constitutional Convention favored direct election of the president by the people. Proponents wanted the president to be the "guardian of the people" and as independent as possible of Congress and the states. But the delegates were hopelessly divided between direct election by the people and election by Congress.

The Electoral College was a last-minute compromise, reached under what James Madison called the "hurrying influence produced by fatigue and impatience." The Electoral College has been patched many times since.

The interstate compact proposal wouldn't abolish the Electoral College, but at least it would ensure that it reflects the national popular vote.

Election officials in the compact states would award all of their electoral votes to the candidate receiving the greatest number of votes nationally.

Clearly, one state could not do this on its own. So each of the states has the same 888-word bill entering into a binding interstate compact (you can find the text at www.nationalpopularvote.com). States would join the agreement one by one. The compact would take effect only after enough states joined to represent a majority of Americans and electoral votes -- 270 of the 538 electoral votes.

So far, the bill has been introduced in five legislatures -- California, Illinois, Colorado, Missouri and Louisiana. The campaign's goal is 10 states by the end of 2006 and enough states by the end of 2007 to make direct election the governing rule for the 2008 presidential election.

In California, the Assembly approved the bill Tuesday. Because California has such strong influence nationally, the governor and senators can get this process rolling in other states by acting this session. Otherwise, in presidential elections, unhappy Americans are bound to continue paying for the Founding Fathers' fatigue.

The Sacramento Bee

Editorial: Another Chance To Lead

Electoral College bill sets reform in motion

Wednesday, September 6, 2006

With a historic deal between Gov. Arnold Schwarzenegger and the Legislature, California took the national leadership role in global warming issues, becoming the first state to put a cap on greenhouse gas emissions. In a much less noticed measure, California also can take a national leadership role in fixing the broken, obsolete way Americans elect the president.

Our system, the Electoral College, can produce the perverse result that the winner of the national popular vote can lose the presidential election. And because states give all their electoral votes to one candidate, using a winner-take-all method, presidential candidates concentrate on only a handful of battleground states. The vast majority of states, large and small, are neglected. For example, Democratic presidential candidates ignore California as safe and Republicans write it off as lost.

With Assembly Bill 2948, which sits on the governor's desk, the states take matters into their own hands by creating a binding interstate compact to assure that the winner of the national popular vote becomes president. Tom Campbell, a Republican former state senator, congressman and Schwarzenegger's director of finance, is among the leaders of this bipartisan campaign. Schwarzenegger should sit down with Campbell, hear him out and sign the bill.

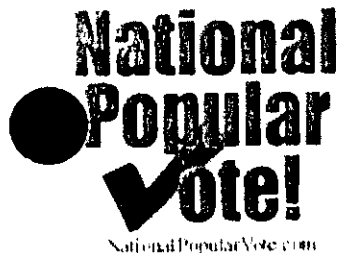
Here's how it would work: Each state wanting to join enacts the same 888-word bill giving all of its electoral votes to the candidate receiving the greatest number of votes nationally (see nationalpopularvote.com). The compact only takes effect when enough states join to form a majority of electoral votes (270 of 538).

At the 1787 Constitutional Convention, some delegates wanted direct election of the president; others wanted indirect election by Congress. At the very last minute, under the "hurrying influence produced by fatigue and impatience," in the words of James Madison, they settled on the Electoral College. Nobody wanted it. It's not a venerable institution. It broke down immediately and has been amended many times.

After 55 presidential elections, it's time to acknowledge that the presidency is a national office calling for direct election by the American people. With California's leadership, this can happen.

Schwarzenegger should sign this historic bill, as he did the greenhouse gas emissions bill. Both bills put California at the forefront of states providing 21st century solutions to much older problems.

<http://www.sacbee.com/content/opinion/story/14318573p-15240794c.html>



MAKING EVERY VOTE EQUAL IN PRESIDENTIAL ELECTIONS

A State-Based Plan For Electing The President By National Popular Vote

What's Wrong With The Current System For Electing The President?

- With the current winner-take-all allocation of each state's electoral votes, **candidates are forced to focus exclusively on a small number of "battleground" states.**
- **More than two-thirds of the states are effectively disenfranchised**, receiving little or no attention from the candidates or their campaigns. No visits, no ads, no policy consideration.
- **Not every vote is equal.** The statewide winner-take-all rule creates variations of 1000-to-1 and more in the weight of a vote.
- **The current system does not reliably reflect the national popular vote.** It is possible to win the Presidency without winning the most popular votes nationwide.
- **Creates artificial crises** even when the nationwide popular vote is not particularly close.

Nationwide Popular Election As A Remedy To The Current Problems

- **Makes all states competitive and all votes important.**
- **Guarantees that the candidate with the most popular votes nationwide wins the Presidency.**
- **Makes every vote equal.**
- **It's what the public wants** - An overwhelming majority of Americans support nationwide popular election of the President - over 70% in recent polls.

What is the National Popular Vote Plan?

- Each state participating in the plan would award all of their electoral votes to the presidential candidate receiving the most popular votes nationwide (in all 50 states and the District of Columbia).
- **The National Popular Vote plan would take effect only when the plan has been enacted by states collectively possessing a majority of the electoral votes**—that is 270 of the 538 electoral votes. This guarantees that the presidential candidate receiving the most popular votes nationwide would win enough electoral votes in the Electoral College to become President.
- The proposed National Popular Vote plan is state legislation in the form of an "interstate compact." An interstate compact is the legal vehicle that the Founders placed in the Constitution to enable the states to address a common problem by coordinated action.
- The plan recognizes the inherent power granted to the states in the Constitution to employ the most suitable method for casting their electoral votes.

For more information, visit: www.NationalPopularVote.com and www.every-vote-equal.com

National Popular Election of the President
National Popular Vote!

www.NationalPopularVote.com

What People Are Saying About the National Popular Vote Plan

"innovative new proposal ... Legislatures across the country should get behind it"
—**New York Times**—March 14, 2006

"The Sun-Times News Group backs the concept and applauds the National Popular Vote group for thinking outside the box"
—**Chicago Sun Times Editorial**—March 1, 2006

"an inventive proposal"
—**Neal Peirce**—Houston Chronicle—March 5, 2006

"a brilliant idea"
—**Andrew Gumbel**—LA CityBeat—March 9, 2006

"the Legislature [should] do the right thing and endorse the new compact."
—**Minneapolis Star Tribune Editorial**—March 27, 2006

"This plan, the 'Agreement Among the States to Elect the President by National Popular Vote' is an innovative, politically practical approach to achieve the goal of nationwide popular election of the President. It has my enthusiastic support."
— **John B. Anderson** (R-Illinois and Independent presidential candidate)

"The ingenious approach put forward in this book provides, for the first time, a solution that is achievable. It does not rely on unrealistic assumptions. It can be implemented, if the very people who are relatively disenfranchised in our country will only be awakened to how to do it."
— **Tom Campbell** (R-California)

"The President and Vice President should be chosen by the same method every other elective office in this country is filled—by citizen voters of the United States in a system which counts each vote equally. ...I unequivocally support this new strategy to provide for the direct election of the President and Vice President. This new approach is consistent with the Constitution...It's refreshing to know states have the ability under the Constitution to step up and create the sensible solution Americans have long been supporting."
— **Birch Bayh** (D-Indiana)

"The people have supported the direct election of the president for over fifty years. In this book Dr. Koza suggests a way for states to come together and make it happen. ...I strongly support and applaud any good-faith effort to make the direct election of the president a reality and commend to you the intriguing approach offered in the *Agreement Among States to Elect the President by National Popular Vote* described in this book"
— **John Buchanan** (R-Alabama)

"What makes the National Popular Vote plan particularly promising is how neatly it fits in with American traditions. A century ago it was states that first established women's suffrage and direct election of U.S. Senators. Under the U.S. Constitution it is states that have the power to fix our broken presidential election system. This book provides the roadmap."
— **Chellie Pingree**, President of Common Cause

"This isn't a Democratic or Republican issue to me. It's important that people have faith that in the election of the most important office in the world that their vote will count. I'm proud to sponsor legislation that will hopefully result in presidential candidates showing up and working to meet voters in my state."
— **Kirk Dillard** (R-Hinsdale, Illinois and DuPage County Republican Chairman)

For more information, visit: www.NationalPopularVote.com and www.every-vote-equal.com

HB 1336 Summary

Senator David P. O'Connell

A bill creating a system in the United States in which the President is elected by national popular vote.

The chief election official from each state shall determine the amount of votes for each Presidential Candidate, and add the votes together from each state to determine the national popular vote total. The chief election officials from each state will then determine the candidate with the most votes as the "national popular vote winner" (line items 16-22 pg. 1).

Any state may become a member of this system and elect to withdraw from the system.

If a state wishes to withdraw from this system during a time when the President has 6 months or less left in term, the state's withdrawal will not take into effect until after a President or Vice President has been qualified to serve the next term (line items 1-3, pg. 3).

4

In Favor of the Electoral College David Hanson

Mr. Chairman and members of the committee, thank you for taking the time to allow me to testify against the proposed interstate compact HB 1336.

I am against any attempt to abolish the Electoral College because it will take voting power and influence away from the states, small states and minority groups.

Currently we benefit from the Electoral College because it protects states and minorities interests. For example: African Americans account for about 13% of the population and farmers approximately around 4%. If we had a direct popular vote the African American vote would be 13% and the farmer's vote would be 4% of the vote. However, with the Electoral College, African Americans make up 25% of the vote of Alabama for their 9 electoral votes, 27% of Georgia's 15 votes, 31% of Louisiana's 9 votes, etc. There are also larger numbers of farmers in some states than in other states, and they have a greater amount of influence in how the electors are chosen for the states they live in, then the amount of influence they would have in a popular vote.

If the National Popular Vote passes, North Dakota's 400,000 voters would be put into a larger pool of voters. We only have about 400,000 votes compared to the multi-millions outside of our state. Those millions would decide who our electors would be, and the decision of choosing our electors would be surrendered to those outside our state. Our influence, voice, and voting power would be virtually gone. The millions and millions of voters in the metropliton areas would drown out the voices of farmers and rural areas. Farmers and rural areas are such an important part of who America is; farming and rural America contribute in a great way to the country's overall economy and well being.

The Electoral College helps prevent candidates from pandering to one region, or running up their vote totals in certain states. Sports fans can understand this aspect very easily. In a baseball season you don't play 100 odd games, add up your total points from all those games and the teams with the most points play in the World Series. Teams would just run up the score on the weaker teams to balance the closer games against tougher opponents. In a direct election, Democrats would run up the vote totals in safe states like Massachusetts and New York, while Republicans would run up their votes in states like Texas and Nebraska.

The Electoral College prevents candidates from ignoring smaller states in favor of metropolitan areas. In a direct election, New York City would have about twice the electoral clout of the states of Alaska, Delaware, Montana, North Dakota, South Dakota, Vermont, and Wyoming combined! Why even campaign in those seven states when you can double your impact by spending more time and less money in one city? The needs and issues of small rural communities would be outweighed in the candidates' minds by those of large or urban areas.

In a direct election, the more votes in a state the better. For example: Massachussetts is very Democratic. The Democrats will almost always easily win 50% of the vote. In the Electoral College system, the Democrat visits a few times to make sure he wins and then moves onto other states. In a direct election, the Democratic candidate would spend a lot more time in Massachusetts trying to push his vote total to 70-80%. In a close election, why visit a state where the polls say that you're 50-50%, spend a bunch of time and money, and maybe get 1-5% more votes, when you could, instead, go to a safe state that says you're leading 60-40%, spend less money and effort, and maybe get 1-5% more votes? In a direct election, candidates would spend more time in states that they're easily going to win in order to run up their vote total, much like the sports illustration I just gave you.

The whole idea that if we adopt the popular vote so that the battleground states will disappear is rather quite silly and unrealistic. The battleground states will still exist, it's just that the candidates will go where it will be more advantageous to them, because that is where the votes will be.

In states like California, urban areas and cities outnumber the rural areas. The candidates for governor or U.S. Senator probably spend most of their time in the urban areas addressing their issues. They probably visit the rural areas more as a gesture of goodwill. Now, I don't follow California politics all that closely, but I doubt that agriculture and rural issues dominate California's politics like they do in North Dakota, except maybe their water issues.

The large cities of San Diego, San Francisco, L.A., and Sacramento basically decide who their statewide officeholders are. In the same way, the metropolitan cities and states will have the upper hand at deciding our Chief Executive if the Electoral College is abolished.

If the direct popular vote is adopted, I believe that during the first several elections the candidates may visit the rural areas and small states. It would be, however, an opportunity for the candidate to say, "See, we haven't forgotten the small states, and the fears of abolishing the Electoral College haven't come to fruition". But when the election is tight, the candidates will go where it will be most advantageous and where they can pick up the most votes for the least amount of time and money. Again, it will not eliminate battleground states.

Another danger in the popular vote is the chaos in tied or close elections. Under the proposed compact, in the event of a tie, the states would use their own results in appointing their own electors. Our nation is very large in terms of population, and even though a tie is quite unlikely, it is theoretically possible to have a tie or very close votes. In the present climate, people are more inclined to call for recounts now than in the past. Close votes have happened and still will happen. John F. Kennedy led Nixon by approximately 100,000 votes. In an extremely tight election result or tie, if there is any possibility to change the election outcome, many will look for any "lost ballots" they can find, or will try to cancel out others, such as potentially double-marked ballots. They would also be looking in states where there is a clear cut winner for technicalities on ballots. Non-compact member states would likely begin recounts of their own to change the election outcome. It could take many weeks or even months to recount and declare a winner. Just think of the 2000 election, which was confined to Florida, but multiply it by many or even all the states being challenged to do recounts.

Something we seem to forget is that our country is based on federalism. The Framers of the Constitution originally wanted the government to be a sharing between the federal and state governments. It still is, but now the states have much less say in the federal government than they used to have. As a matter of fact, as originally set up, only the House of Representatives was chosen by the people; the Senate was actually chosen by the state governments, via the state legislatures. The states had a direct say in what laws were passed. So, the House represented and protected the people's interests and rights, while the Senate represented and protected the state's interests and rights. There were issues that the people may have overlooked, not known about, or not even cared about on a personal level, but were important to the states; the states, then, would bring up those issues for discussion via their Senators. The 17th Amendment took the states out of the federal legislature and indirectly out of the federal judiciary (the Senate voted on judicial appointments). I want to say that I'm not trying to bring up an argument to repeal the 17th Amendment, but simply am trying to show that the state governments had a little more influence in the federal government then they do today. By abolishing the Electoral College, the states would lose their last bit of influence over the remaining branch of government, the executive branch.

Our Founding Fathers demonstrated how important they felt the issue was in how the top officer was chosen. They voted 60 times at the Constitutional Convention on the question of who should vote for the President and how he should be elected. They wanted to get it right. They, of course, discussed and decided against a direct popular vote. They also discussed the

possibility of the House or Senate, or both, appointing the President. On one hand, the big states would get their voice heard in the House, and the small states would have their voice heard in the Senate. But, the President might feel obligated, then, to do what Congress wanted. I personally think they might have wanted to stay away from bribery scandals. They also considered having the governors of each state elect the President. However, the small states would trump any influence that the big states might have. This would have been unfair to the larger states because there would have been more smaller states. They finally decided to have an independent body who's sole purpose was to elect the President. The Electoral College was thoroughly discussed by our Founding Fathers and should not be flippantly discarded by those who do not understand its relevance for today. It is not archaic; it protects us.

The Founding Fathers were concerned about the majority stifling or completely putting out any minority viewpoints, interests, rights and ideas. They created a system of government so that everyone could get a fair shake. Then, in a slow process, good government could be established which would represent all people. The Electoral College balances and distributes, and it gives a certain amount of influence and power to the interests, ideas, and groups of people in all regions of the Union, so that those points could be considered to establish good public policy, points which otherwise could be overlooked or ignored if we went strictly by majority rule.

The problem with this bill is that it is trying to fix a problem doesn't even exist. If North Dakota joins this interstate compact our voice, our influence, will just be simply be surrendered and "absorbed" into the masses outside of our state's borders.

We are not like France, Germany, or the U.K. The United States is composed of sovereign, independent states. If the Electoral College is abolished, the states as we know them will eventually lose their importance and significance and become mere political subdivisions of the U.S.

The Electoral College does a good job at distributing and balancing viewpoints, issues, and interests of the states. The Electoral College has served us well for over 200 years, and it will continue to serve us in the years to come.

Thank you for your patience and consideration. I also want to give credit to James Whitson and Presidentelect.org for a lot of this information. You can visit that sight for more information if you like.

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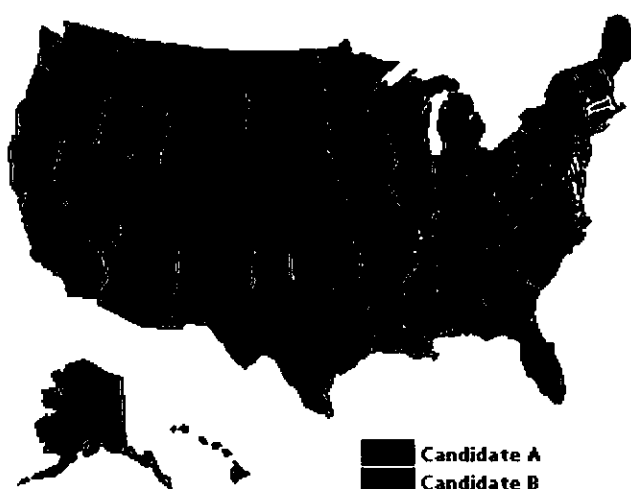
Dangers of a Direct Election - 1

by JAMES R WHITSON < james@presidentelect.org >

posted November 11, 2000

In my recent article [An Open Letter To All Americans Concerned About The Electora College](#) I warned not to be alarmed by those who don't consider the dangers of direct election. In an email I received about that article, someone stated that the fact that I thought there were dangers to a direct election was "frankly beyond contempt". Since this person emailed me and did exactly what I warned about, apparently I didn't make my point well enough. So I'm going to write a few brief hypotheticals that I hope will illustrate these dangers better than I could state them. This is not a proof that the Electoral College is best, but only an example to show that a direct election is not without faults.

Right now, the popular vote difference between Gore and Bush is about 200,000. In 1960, the difference between Kennedy and Nixon was about 120,000. So, obviously close races are possible. Let's imagine a hypothetical race between Candidate A and Candidate B. Mr. A wins every state and DC, except Massachusetts. He wins these states by fairly small margins. In fact his total lead in his 49 states and DC in only 500,000 votes. In Massachusetts, Mr. B wins by 1,000,000 votes. Here is what the electoral map would look like:



AL	KY	ND
AK	LA	OH
AZ	ME	OK
AR	MD	OR
CA	MA	PA
CO	MI	RI
CT	MN	SC
DE	MS	SD
DC	MO	TN
FL	MT	TX
GA	NE	UT
HI	NV	VT
ID	NH	VA
IL	NJ	WA
IN	NM	WV
IA	NY	WI
KS	NC	WY

Who is the President Elect? In a direct election, Candidate B wins. His popular vote would be 500,000 votes more than Candidate A. In the Electoral College, Candidate A wins 526-12.

The major argument direct election proponents use is that the Electoral College isn't fair. Is it fair for a candidate to only get a majority of the votes in one state, and still become President of all fifty?

If you have any questions, comments, gripes, error reports, corrections, etc., feel free to send them to email@presidentelect.org.

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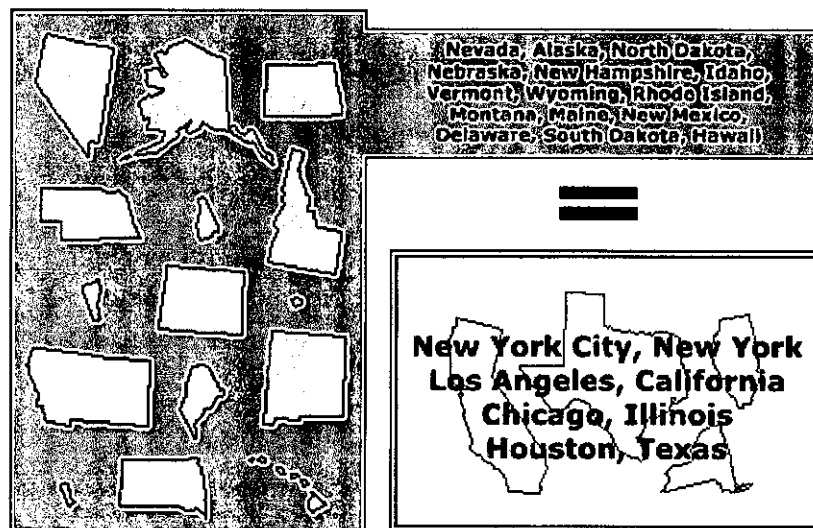
Dangers of a Direct Election - 2

by JAMES R WHITSON < james@presidentelect.org >

posted November 14, 2000

In my recent article [An Open Letter To All Americans Concerned About The Electora College](#) I warned not to be alarmed by those who don't consider the dangers of direct election. In an email I received about that article, someone stated that the fact that I thought there were dangers to a direct election was "frankly beyond contempt". Since this person emailed me and did exactly what I warned about, apparently I didn't make my point well enough. So I'm going to write a few brief hypotheticals that I hope will illustrate these dangers better than I could state them. This is not a proof that the Electoral College is best, but only an example to show that a direct election is not without faults.

The total combined population of the 15 states of Alaska, Delaware, Hawaii, Idaho, Maine, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Rhode Island, South Dakota, Vermont, and Wyoming is about 15.5 million. The total combined population of New York City NY, Los Angeles CA, Chicago IL, and Houston TX is about 15.5 million. The smallest of these states, Rhode Island, is about 1,045 square miles in area. The combined area of these four cities is about 1,610 square miles.



In a direct election, these four cities would have about the same electoral clout of these 15 states. I'm not saying area and square miles should be factored in, but the people of a single state have wide and varied needs and issues *because* of their geography. In a direct election people in large cities will be given preferential treatment by the candidates because it will be less expensive and more efficient for them to spend their time there rather than travel throughout an entire state.

The major argument direct election proponents use is that the Electoral College isn't fair. Is it fair for a candidate to ignore the needs and issues of several states over those of a single city simply because it's easier on them to do so?

HB
1336

EVERY VOTE EQUAL:

A State-Based Plan for Electing the President by National Popular Vote

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