

November 20, 2020

To: WFNC Members
Fr: Ana Maria Archila & Dan Cantor, Co-Chairs
Re: National Popular Vote

On our last call, several WFNC members mentioned that among the problems in our constitutional design, the Electoral College is surely at or near the top of the list of things that deserve to be tossed into the dustbin of history. As with the US Senate, the Electoral College violates the deepest principle of democracy, which is the moral equality of persons. It is largely (though not only) a relic of the slaveholding states, and the only serious effort to do away with the Electoral College (in the early 1970s) foundered on the rock of Southern segregationist opposition.

The second serious effort to do away with the Electoral College is underway now. It goes by the name of National Popular Vote, or NPV. It offers a new, clever and as yet untested system that establishes an **inter-state compact** among the states to choose the President. It doesn't "eliminate" the Electoral College so much as create a "work-around" that ignores it. Basically, the compact states would agree to change how they allocate their electoral votes.

Right now, 48 states and WDC assign all of their electoral votes to the winner of the popular vote in their state. (Nebraska and Maine do it on a Congressional District basis). Under the NPV system, each state in the compact would assign their state's electoral votes to the winner of the national popular vote, regardless of the outcome in their particular state. But the compact takes effect IF AND ONLY IF the participating states represent at least 270 electoral votes.

Basically, it's a giant political version of "Let's hold hands and jump into the water *together!*" The winner of the national popular vote would get 100% of the Electoral College votes from the states in the NPV compact. Assuming that the total is 270 or higher, it means the winner of the national popular vote would automatically have an electoral college majority. (I know, it's all just so ridiculous that we don't have a popular election).

At this writing, 15 states and Washington, D.C. have passed legislation that will join those jurisdictions to the NPV compact if it gets to 270. Right now that's a total of 196 electoral votes. The last 74 will no doubt be harder to get as it requires either flipping state legislative chambers in a few purple states and/or winning some ballot measures in some red states. Still, even that is not impossible. If 20 states plus DC cumulatively

produce 270 or more electoral votes, then it doesn't matter if the other 30 disagree. In a sense, all 50 states will then be swing states, and we can stop talking about Pennsylvania.

Please scroll down for the NPV Campaign's fact sheet for a more detailed look at the topic.

Thanks in advance.



“Agreement among the States to Elect the President by National Popular Vote”

February 13, 2020

The National Popular Vote bill will guarantee the Presidency to the candidate who receives the most popular votes in all 50 states and the District of Columbia.

Since 2006, the National Popular Vote bill has been enacted by 15 states and the District of Columbia (together possessing 196 electoral votes), including 4 small states (DE, HI, RI, VT), 8 medium-sized states (CO, CT, MD, MA, NJ, NM, OR, WA), and 3 big states (CA, IL, NY).

The bill will take effect when enacted by states with 74 more electoral votes (for a total of 270).

The bill has passed at least one legislative chamber in 9 states with 88 electoral votes (AR, AZ, ME, MI, MN, NC, NV, OK, VA), including the Republican-controlled Arizona House and Oklahoma Senate, and by unanimous committee votes in Georgia and Missouri. 3,471 state legislators have endorsed it.

The U.S. Constitution (Article II) gives states exclusive control over awarding their electoral votes:

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

The shortcomings of the current system stem from *state* “winner-take-all” laws that award *all* of a state’s electoral votes to the candidate receiving the most popular votes in each state.

The winner-take-all method of awarding electoral votes is *not* in the U.S. Constitution. It was not debated at the 1787 Constitutional Convention. It was not mentioned in the *Federalist Papers*. It was used by only three states in the first presidential election in 1789 (and all three repealed it by 1800).

Because of these state winner-take-all laws, presidential candidates ignore states where they are safely ahead or hopelessly behind. In 2012, *all* of the general-election campaign events (and virtually all campaign expenditures) were concentrated in the 12 states where Romney’s support was between 45% and 51%. Two-thirds of the events were in four states (OH, FL, VA, IA). Thirty-eight states were ignored, including 12 of the 13 smallest states and almost all rural, agricultural, Southern, Western, and Northeastern states. Similarly, in 2016, virtually all campaign events (94%) were in the 12 states where Trump’s support was between 43% and 51%.

Two-thirds of the events (273 of 399) were in just 6 states (OH, FL, VA, NC, PA, MI). A similar pattern prevailed in 2000, 2004, 2008, and is expected in 2020.

State winner-take-all laws have enabled 5 of our 45 Presidents to come into office without winning the most popular votes nationwide. The national popular vote winner also would have been defeated by a shift of 59,393 popular votes in Ohio in 2004 (despite President Bush's nationwide lead of 3 million votes); 9,246 votes in 1976; 77,726 in 1968; 9,212 in 1960; 20,360 in 1948; and 1,711 votes in 1916.

The National Popular Vote interstate compact will go into effect when enacted by states with a majority of the presidential electors—that is, 270 of 538. After the compact comes into effect, every voter in all 50 states and DC will acquire a direct vote in the choice of ***all*** of the presidential electors from ***all*** of the states that enacted the compact. The presidential candidate supported by the most voters in all 50 states and DC will thereby win a majority of the presidential electors in the Electoral College (at least 270), and therefore become President.

Under the current state-by-state winner-take-all system, the individual voter influences only the choice of the limited number of presidential electors from their own state. Under National Popular Vote, every voter in all 50 states and DC will have a direct vote in choosing 270 (or more) presidential electors.

The National Popular Vote compact would make every person's vote equal throughout the U.S. It would ensure that ***every*** vote, in ***every*** state, will matter in ***every*** presidential election.

The National Popular Vote compact is a state-based approach that retains the power of the states to control how the President is elected, retains state control of elections, and retains the Electoral College.

For additional information, see our book *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* (downloadable for free at www.NationalPopularVote.com).

Answers to 131 myths are at www.nationalpopularvote.com/answering-myths