

THE ELECTORAL COLLEGE

THE LEAGUE SUPPORTS THE DIRECT-POPULAR-VOTE METHOD FOR ELECTING THE PRESIDENT AND VICE-PRESIDENT

By Nancy Crow, January 2017

HISTORY

The Electoral College is a process established by the founding fathers as a compromise between election of the President by Congress and election by popular vote. In short the people in each state vote for electors who then vote for the President and Vice-President. It was designed to emphasize the power of the state in contrast to the power of the individual voter and to control the influence of the “masses” on presidential elections – that is, the Electoral College process filters the people’s votes for President and Vice President through a state–related system. Under the Constitution, electoral votes are apportioned to states according to the total number of senators and representatives from each. Thus, even the smallest states, regardless of their population, get at least three electoral votes.

The Constitution specifies that the President and Vice President be elected through the votes cast by electors chosen by the states rather than by a direct popular vote. At first, some electors were chosen by state legislatures, but by 1836 all states but South Carolina chose electors through a statewide popular vote. (S.C. followed suit in 1860.) Today, all states but Maine and Nebraska have a winner-take-all system in which all of a given state's electors vote for the winner of that state's popular vote.

TODAY'S PROBLEMS WITH THE ELECTORAL COLLEGE

Although at the time of the founding fathers there may have been good reasons for the compromise resulting in the Electoral College, today it has lost much of its relevance. There are at least four compelling arguments against the Electoral College.

1. The Electoral College system excludes many voters from a meaningful role in presidential elections. If you live in a state where the winner is a foregone conclusion (e.g., New York), your vote has less meaning – and especially so if you vote on the losing side. But if you live in a state where the outcome is less clear (e.g. Ohio), your vote has a greatly magnified importance.

Two-thirds (273 of 399) of the general-election campaign events in the 2016 presidential race were in just 6 states (Florida, North Carolina, Pennsylvania, Ohio, Virginia, and Michigan). 94% of the 2016 events (375 of the 399) were in 12 states. This fact validates the statement by former presidential candidate and Governor Scott Walker of Wisconsin on September 2, 2015, that “The nation as a whole is not going to elect the next president. Twelve states are.”

2. Voters in small states are favored because Electoral College votes are based on the number of senators and representatives of each state.

Wyoming’s 587,910 people get three electoral votes. California’s 39,497,345 people get 55 electoral votes. Meaning:

California gets 1 vote per 718,134 people.

Wyoming gets 1 vote per 195,970 people.

A vote in Wyoming is 3.67 times greater than a vote in California. This clearly distorts the “one person, one vote” principle.

- The Electoral College also makes America seem more divided along blue-red lines than it actually is. On an Electoral College map, California looks solidly blue and Alabama solidly red. While a great percentage in each state could have voted otherwise.
- Finally, four times since the Civil War, and most recently in 2016, the Electoral College system has awarded the presidency to the loser of the popular vote.

1876	Rutherford B. Hayes	Republican	185	4,033,768	William A. Wheeler—R
	Samuel J. Tilden	Democratic	184	4,285,992	Thomas A. Hendricks—D
	Peter Cooper	Greenback	0	81,737	Samuel F. Cary—G

Hayes was chosen by a special electoral commission since initially neither candidate had the requisite 185 electoral votes.

1888	Benjamin Harrison	Republican	233	5,440,216	Levi P. Morton—R
	Grover Cleveland	Democratic	168	5,538,233	A. G. Thurman—D
	Clinton B. Fisk	Prohibition	0	249,506	John A. Brooks—P
	Alson J. Streeter	Union Labor	0	146,935	Charles E. Cunningham—UL

2000	George W. Bush	Republican	271	50,456,002	Richard B. Cheney—R
	Albert A. Gore	Democratic	266	50,999,897	Joseph I. Lieberman—D
	Ralph Nader	Green Party	0	2,882,955	Winona LaDuke—GP

One elector from the District of Columbia left her ballot blank to protest the city's lack of representation in Congress, leaving Gore with 266 electoral votes instead of 267.

2016	Donald Trump	Republican	306	62,979,636	Mike Pence—R
	Hillary Clinton	Democratic	232	65,844,610	Tim Kaine—D

The 2016 election saw a historic number of electors change their votes, with 2 pledged to Donald Trump voting for John Kasich (1, Texas) and Ron Paul (1, Texas) – with 5 pledged to Hillary Clinton voting for Colin Powell (3, Washington), Bernie Sanders (1, Hawaii), and Faith Spotted Eagle (1, Washington).

FIVE MAJOR CHANGES IN THE PRESIDENTIAL ELECTION SYSTEM THAT HAVE BEEN IMPLEMENTED WITHOUT A CONSTITUTIONAL AMENDMENT

- Popular voting for president,
- The statewide winner-take-all rule,
- Nomination of candidates by nationwide political parties,
- The non-deliberative nature of the Electoral College, and
- The short presidential ballot.

THE THREE MOST DISCUSSED PROPOSALS FOR A FEDERAL CONSTITUTIONAL AMENDMENT ARE:

- **Fractional Proportional Allocation of Electoral Votes** in which a state's electoral votes are divided proportionally according to the percentage of votes received in that state by each presidential slate.
- **District Allocation of Electoral Votes** in which the people elect two presidential electors statewide and one presidential elector for each district.

- **Direct Nationwide Popular Election** in which all the popular votes are added together on a nationwide basis.

LWVUS POSITION ON THE SELECTION OF THE PRESIDENT

The statement of the League position on the selection of the president was adopted in January 1970, revised in March 1982, and updated in June 2004. It reads as follows:

"The League of Women Voters of the United States believes that the direct-popular-vote method for electing the President and Vice-President is essential to representative government. The League of Women Voters believes, therefore, that the Electoral College should be abolished. The League also supports uniform voting qualifications and procedures for presidential elections. The League supports changes in the presidential election system -- from the candidate selection process to the general election. We support efforts to provide voters with sufficient information about candidates and their positions, public policy issues and the selection process itself. The League supports action to ensure that the media, political parties, candidates, and all levels of government achieve these goals and provide that information."

The 2008 Convention voted to conduct a study of the National Popular Vote proposal, which would establish the popular election of the President through a compact among the states governing how they would cast their votes in the Electoral College.

The 2010 Convention adopted a concurrence to support the National Popular Vote Compact as another method of selecting the President until such time as the Electoral College is abolished.

SUMMARY OF THE NATIONAL POPULAR VOTE INTERSTATE COMPACT

The National Popular Vote bill is a method to achieve the direct election of the President of the United States without the passage of a Constitutional amendment. Under the U.S. Constitution, the states have exclusive power to allocate their electoral votes, and may change their state laws concerning the awarding of their electoral votes at any time. A state enacting the National Popular Vote, would allocate all of that state's electoral votes to the presidential candidate who receives the most popular votes in all fifty states and the District of Columbia. The bill would take effect only when enacted, in identical form, by states possessing a majority (270) of the 538 total electoral votes. This is the number of electoral votes needed to elect the President.

STATUS OF THE NATIONAL POPULAR VOTE INTERSTATE COMPACT TODAY

It has been enacted into law in 10 states and the District of Columbia for a total of 165 electoral votes. It will take effect when enacted by states with 105 more electoral votes.

- District of Columbia – 3 electoral votes
- Hawaii – 4 electoral votes
- Illinois – 20 electoral votes
- Maryland – 10 electoral votes
- Massachusetts – 11 electoral votes
- New Jersey – 14 electoral votes
- Washington – 12 electoral votes
- Vermont – 3 electoral votes

- California – 55 electoral votes
- Rhode Island – 4 electoral votes
- New York – 29 electoral votes

Most recently, the bill was passed by a bipartisan 40–16 vote in the Republican-controlled Arizona House, 28–18 in Republican-controlled Oklahoma Senate, 57–4 in Republican-controlled New York Senate, and 37–21 in Democratic-controlled Oregon House. It has passed one house in 12 additional states with 96 electoral votes and been approved unanimously by committee votes in two additional states with 27 electoral votes.

WHAT HAS HAPPENED IN COLORADO WITH REGARD TO THE NATIONAL POPULAR VOTE INTERSTATE COMPACT

In 2006, Colorado's Senate was the first state legislative house in the nation to pass National Popular Vote's legislation for nationwide election of the President (SB 06-223). Among the Senators voting for the bill on its third reading on April 17, 2006, were Senators Ken Gordon (D), John Evans (R), and Lew Entz (R).

On January 24, 2007, the Colorado State Senate approved the National Popular Vote bill (SB-07-046). The bill was approved by the Senate Committee on State, Veterans and Military Affairs on January 17.

On March 17, 2009, the Colorado House of Representatives passed the National Popular Vote bill (HB 1299). Colorado Representative Andrew Kerr was a sponsor.

It has never passed both chambers of the Colorado Assembly in the same legislative session; therefore, Colorado has not joined the compact to date.

WHAT IS HAPPENING NOW IN COLORADO WITH REGARD TO THE NATIONAL POPULAR VOTE INTERSTATE COMPACT

State Senator Andy Kerr introduced a bill that would include Colorado in the National Popular Voter Interstate Compact. It is SB17-099. State Representative Rosenthal has sponsored the same in the House.

Senator Kerr's National Popular Vote legislation (SB17-099). The bill has been assigned to the Senate State, Veterans, and Military Affairs Committee and will be heard on Wednesday, February 15th in Room 357 on the 3rd floor of the Capitol at 1:30 pm.

Remote testimony for this hearing so if you live or have members of your organization in the following five areas, they will have the opportunity to testify without having to come to the Capitol:

1. La Junta ([Otero Junior College](#))
2. Grand Junction ([Colorado Mesa University](#))
3. Trinidad ([Trinidad Junior College](#))
4. Alamosa ([Adams State University](#))
5. Durango ([Fort Lewis College](#))