

= National Popular Vote Interstate Compact =

The National Popular Vote Interstate Compact (NPVIC) is an agreement among several U.S. states and the District of Columbia to award all their respective electoral votes to whichever presidential candidate wins the overall popular vote in the 50 states and the District of Columbia . The compact is designed to ensure that the candidate who wins the most popular votes is elected president , and it will come into effect only when it will guarantee that outcome . As of 2016 , it has been joined by ten states and the District of Columbia ; their 165 combined electoral votes amount to 30 @. @ 7 % of the total Electoral College vote , and 61 @. @ 1 % of the 270 votes needed for it to have legal force .

= = Mechanism = =

Proposed in the form of an interstate compact , the agreement would go into effect among the participating states in the compact only after they collectively represent an absolute majority of votes (currently at least 270) in the Electoral College . In the next presidential election after adoption by the requisite number of states , the participating states would award all of their electoral votes to presidential electors associated with the candidate who wins the overall popular vote in the 50 states and the District of Columbia . As a result , the winner of the national popular vote would always win the presidency by always securing a majority of votes in the Electoral College . Until the compact 's conditions are met , all states award electoral votes in their current manner .

The compact would modify the way participating states implement Article II , Section 1 , Clause 2 of the U.S. Constitution , which requires each state legislature to define a method to appoint its electors to vote in the Electoral College . The Constitution does not mandate any particular legislative scheme for selecting electors , and instead vests state legislatures with the exclusive power to choose how to allocate its own electors . States have chosen various methods of allocation over the years , with regular changes in the nation 's early decades . Today , all but two states (Maine and Nebraska) award all their electoral votes to the candidate with the most votes statewide .

= = Motivation behind the compact = =

Under current state laws , a presidential candidate could lose the popular vote nationally but still win the presidency Public opinion surveys suggest that a majority of Americans support the idea of a popular vote for President . A 2007 poll found that 72 % favored replacing the Electoral College with a direct election , including 78 % of Democrats , 60 % of Republicans , and 73 % of independent voters . Polls dating back to 1944 have shown a consistent majority of the public supporting a direct vote . Reasons behind the compact include :

The Electoral College allows a candidate to win the Presidency while losing the popular vote , as happened in the elections of 1824 , 1876 , 1888 and 2000 . In the 2000 election , the outcome was decided by 528 votes in Florida .

The Electoral College system effectively forces candidates to focus disproportionately on a small percentage of pivotal swing states , while sidelining the rest . A study by FairVote reported that the 2004 candidates devoted three quarters of their peak season campaign resources to just five states , while the other 45 states received very little attention . The report also stated that 18 states received no candidate visits and no TV advertising . This means that swing state issues receive more attention , while issues important to other states are largely ignored .

The Electoral College system tends to decrease voter turnout in states without close races . Voters living outside the swing states have a greater certainty of which candidate is likely to win their state . This knowledge of the probable outcome decreases their incentive to vote . A report by the Committee for the Study of the American Electorate found that 2004 voter turnout in competitive swing states grew by 6 @. @ 3 % from the previous presidential election , compared to an increase of only 3 @. @ 8 % in noncompetitive states . A report by The Center for Information and Research

on Civic Learning and Engagement (CIRCLE) found that turnout among eligible voters under age 30 was 64 % in the 10 closest battleground states and only 47 % in the rest of the country ? a 17 % gap .

= = Debate = =

The project has been supported by editorials in many newspapers , including the New York Times , the Chicago Sun Times , the Los Angeles Times , the Boston Globe , and the Minneapolis Star Tribune , arguing that the existing system discourages voter turnout and leaves emphasis on only a few states and a few issues , while a popular election would equalize voting power . Others have argued against it , including the Honolulu Star Bulletin . An article by Pierre S. du Pont , IV , a former governor of Delaware , in the opinion section of the Wall Street Journal has called the project an urban power grab that would shift politics entirely to urban issues in high population states and allow lower caliber candidates to run . A collection of readings pro and con has been assembled by the League of Women Voters .

Some of the major points of debate are detailed below :

= = Campaign focus = =

Under the current system , campaign focus ? in terms of spending , visits , and attention paid to regional or state issues ? is largely limited to the few swing states whose electoral outcomes are competitive , with politically " solid " states mostly ignored by the campaigns . The maps to the right illustrate the amount spent on advertising and the number of visits to each state , relative to population , by the two major party candidates in the last stretch of the 2004 presidential campaign . Supporters of the compact contend that a national popular vote would encourage candidates to campaign with equal effort for votes in competitive and non competitive states alike . Critics of the compact argue that candidates would have less incentive to focus on states with smaller populations or fewer urban areas , and would thus be unmotivated to address rural issues .

= = Close elections and election fraud = =

Opponents of the compact have raised concerns about election fraud . In his article , Pete du Pont argues that in 2000 , " Mr. Gore 's 540 ,000 vote margin amounted to 3 votes in each of the country 's 175 ,000 precincts . ' Finding ' three votes per precinct in urban areas is not a difficult thing ... " . However , National Popular Vote has argued that a direct election would in fact reduce the likelihood of a close election and decrease the feasibility of fraud . They contend that the large pool of 122 million votes spread across the country would make a close or fraudulent outcome much less likely than under the current system , in which the national winner may be determined by an extremely small vote margin in any one of the fifty one statewide tallies .

The NPVIC does not include any provision for a nationwide recount in the event that the vote tally is in dispute . While each state has established rules governing recounts in the event of a close or disputed statewide tally , it is possible for the national vote to be close without there being a close result in any one state . Proponents of the compact argue that the need for a recount would be less likely under a national popular vote than under the current electoral system .

= = Populous states versus low population states = =

There is some debate over whether the Electoral College favors small- or large population states . Those who argue that the College favors low population states point out that such states have proportionally more electoral votes relative to their populations , because each state 's number of electors is greater by two than its (proportionally allocated) number of Congressional representatives . In the most populous state , California , this results in an electoral clout 16 % smaller than a purely proportional allocation would produce , whereas the least populous

states , with three electors , hold a voting power 143 % greater than they would under purely proportional allocation . The proposed compact would give equal weight to each voter 's ballot , regardless of what state they live in . Others , however , believe that since most states award electoral votes on a winner @-@ takes @-@ all system , the potential of populous states to shift greater numbers of electoral votes gives them more actual clout .

= = = Possible partisan advantage = = =

Some supporters and opponents of the NPVIC have based their position at least in part on a perceived partisan advantage of the compact . Governor Du Pont , a Republican , has argued that the compact would be an " urban power grab " and benefit Democrats . However , Saul Anuzis of the Republican National Committee wrote that Republicans " need " the compact , citing what he believes to be the center @-@ right nature of the American electorate . New Yorker essayist Hendrik Hertzberg maintains that the compact would benefit neither party , noting that historically both Republicans and Democrats have been successful in winning the popular vote in presidential elections . In the last four elections , Democrats enjoyed an advantage from the electoral vote system in three elections (2012 , 2008 , and 2004) , whereas in 2000 the electoral system provided the Republicans with an advantage .

= = = Relevance of state @-@ level majorities = = =

Two governors who have vetoed NPVIC legislation , Arnold Schwarzenegger of California and Linda Lingle of Hawaii , both in 2007 , objected to the compact on the grounds that it could require their states ' electoral votes to be awarded to a candidate who did not win a majority in their state . (Both states have since enacted laws joining the compact .) Supporters of the compact counter that under a national popular vote system , state @-@ level majorities are irrelevant ; in any state , votes cast contribute to the nationwide tally , which determines the winner . The preferences of individual voters are thus paramount , while state @-@ level majorities are an obsolete intermediary measure .

= = = Legality = = =

Supporters believe the compact is legal under Article II of the U.S. Constitution , which establishes the plenary power of the states to appoint their electors in any manner they see fit : " Each State shall appoint , in such Manner as the Legislature thereof may direct , a Number of Electors , equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress ? " Proponents of this position include law professors Jamie Raskin , who co @-@ sponsored the first NPVIC bill to be signed into law , and Akhil Reed Amar and Vikram Amar , who were the compact 's original proponents .

A 2008 assessment by law school student David Gringer suggested that the NPVIC could potentially violate the Voting Rights Act of 1965 , but the U.S. Department of Justice in 2012 precleared California 's entry into the compact under Section 5 of the Act , concluding that the compact had no adverse impact on California 's racial minority voters . The DOJ 's decision is consistent with the argument of FairVote 's Rob Richie that the NPVIC " treats all voters equally . "

Gringer also assailed the NPVIC as " an end @-@ run around the constitutional amendment process . " Raskin has responded : " the term ' end run ' has no known constitutional or legal meaning . More to the point , to the extent that we follow its meaning in real usage , the ' end run ' is a perfectly lawful play . " Raskin argues that the adoption of the term " end run " by the compact 's opponents is a tacit acknowledgment of the plan 's legality .

Ian Drake , an assistant professor of Political Science and another critic of the compact , has argued that the constitution both requires and prohibits Congressional approval of the compact . In Drake 's view , only a constitutional amendment could make the compact valid . Authors Michael Brody , Jennifer Hendricks , and Bradley Turflinger have examined the compact and concluded that

the NPVIC , if successfully enacted , would pass constitutional muster .

It is possible that Congress would have to approve the NPVIC before it could go into effect . Article I , Section 10 of the US Constitution states that : " No State shall , without the Consent of Congress . . . enter into any Agreement or Compact with another State , or with a foreign Power . " However , the U.S. Supreme Court has ruled in *Virginia v. Tennessee* , 148 U.S. 503 (1893) , and in several more recent cases , that such consent is not necessary except where a compact encroaches on federal supremacy . Every Vote Equal argues that the compact could never encroach upon federal power since the Constitution explicitly gives the power of casting electoral votes to the states , not the federal government . Derek Muller argues that the NPVIC would nonetheless affect the federal system in such a way that it would require Congressional approval , while Ian Drake argues that Congress is actually prohibited under the Constitution from granting approval to the NPVIC . NPVIC supporters dispute this conclusion and state they plan to seek congressional approval if the compact is approved by a sufficient number of states .

= = History = =

= = = Proposals to abolish the Electoral college by amendment = = =

Several proposals to abolish the Electoral College by constitutional amendment have been introduced in Congress over the decades . These efforts have , however , been hampered by the fact that a two @-@ thirds vote in both the House and Senate are required to send an amendment to the states , where ratification by three @-@ fourths of the State legislatures is required for it to become operative .

= = = Bayh ? Celler Amendment = = =

The amendment which came closest to success was the Bayh ? Celler proposal during the 91st Congress . Introduced by Representative Emanuel Celler of New York as House Joint Resolution 681 , it would have replaced the Electoral College with a simpler plurality system based on the national popular vote . Under this system , the pair of candidates who had received the highest number of votes would win the presidency and vice presidency respectively , providing they won at least 40 % of the national popular vote . If no pair received 40 % of the popular vote , a runoff election would be held , in which the choice of president and vice president would be made from the two pairs of persons who had received the highest numbers of votes in the first election . The word " pair " was defined as " two persons who shall have consented to the joining of their names as candidates for the offices of President and Vice President . " Celler 's proposed constitutional amendment passed in the House of Representatives by a 338 ? 70 vote in 1969 , but was filibustered in the Senate , where it died .

= = = Every Vote Counts Amendment = = =

A joint resolution to amend the Constitution , providing for the popular election of the president and vice president under a new electoral system was introduced in 2005 by Representative Gene Green of Texas . In 2009 , at the start of the 111th Congress , Green introduced H.J.Res. 9 , commonly known as the Every Vote Counts Amendment . Two other joint resolutions were proposed in the 111th Congress to amend the Constitution to establish a national popular vote for the president and vice @-@ president . Sponsored by Congressman Jesse Jackson , Jr. of Illinois , H.J.Res. 36 would require a majority vote for president . Sponsored by Senator Bill Nelson of Florida , S.J.Res. 4 would leave the method of election to an Act of Congress . Each of these measures died in committee .

= = = Academic plan = = =

In 2001 , Northwestern University law professor Robert Bennett suggested a plan in an academic publication to implement a National Popular Vote through a mechanism that would embrace state legislatures ' power to appoint electors , rather than resist that power . By coordinating , states constituting a majority of the Electoral College could effectively implement a popular vote .

Law professors (and brothers) Akhil Reed Amar and Vikram Amar defended the constitutionality of such a plan . They proposed that a group of states , through legislation , form a compact wherein they agree to give all of their electoral votes to the national popular vote winner , regardless of the balance of votes in their own state . These state laws would only be triggered once the compact included enough states to control a majority of the electoral college (270 votes) , thus guaranteeing that the national popular vote winner would also win the electoral college .

The academic plan uses two constitutional features :

Presidential Electors Clause in Article 2 , section 1 , clause 2 which gives each state the power to determine the manner in which its electors are selected .

Compact Clause , Article I , section 10 , clause 3 under which it creates an enforceable compact .

The Amar brothers noted that such a plan could be enacted by the passage of laws in as few as eleven states and would probably not require Congressional approval , though this is not certain (see Debate above) .

= = = Organization and advocacy = = =

In 2006 , John Koza , a computer science professor at Stanford , was the lead author of Every Vote Equal , a book that makes a detailed case for his plan for an interstate compact to establish National Popular Vote . (Koza had previously had exposure to interstate compacts from his work with state lottery commissions after inventing the scratch @-@ off lottery ticket .) That year , Koza , Barry Fadem and others formed National Popular Vote , a non @-@ profit group to promote the legislation . The group has a transpartisan advisory committee including former US Senators Jake Garn , Birch Bayh , and David Durenberger , and former Representatives John Anderson , John Buchanan , and Tom Campbell .

By the time of the group 's opening news conference in February 2006 , the proposed interstate compact had been introduced in the Illinois legislature . With backing from National Popular Vote , the NPVIC legislation was introduced in five additional state legislatures in the 2006 session . It passed in the Colorado Senate and in both houses of the California legislature before being vetoed by Governor Arnold Schwarzenegger .

= = = Adoption = = =

In 2007 , NPVIC legislation was introduced in 42 states . It was passed by legislative chambers in Arkansas , California , Colorado , Illinois , New Jersey North Carolina , Maryland , and Hawaii . Maryland became the first state to join the compact when Governor Martin O 'Malley signed it into law on April 10 , 2007 .

New Jersey became the second state to enter the compact when Governor Jon S. Corzine signed the bill on January 13 , 2008 . Illinois became the third state to join when Governor Rod Blagojevich signed it into law on April 7 , 2008 and Hawaii became the fourth on May 1 , 2008 , after the legislature overrode a second veto from the governor .

Washington became the fifth state to join when Governor Christine Gregoire signed it into law on April 28 , 2009 . Massachusetts became the sixth state to join when Governor Deval Patrick signed it into law on August 4 , 2010 . The District of Columbia entered into the compact when the bill was signed by Mayor Adrian Fenty on October 12 , 2010 . (Neither chamber of Congress objected to the passage of the bill during the mandatory review period of 30 legislative days following that date , thus allowing the District 's action to proceed .)

Vermont joined the compact when Governor Peter Shumlin signed it into law on April 22 , 2011 . California entered the compact on August 8 , 2011 , with Governor Jerry Brown 's signature . Rhode Island entered the compact on July 12 , 2013 , with Governor Lincoln Chafee 's signature . On April

15 , 2014 , New York entered the compact with a bipartisan vote in the NY assembly and Governor Andrew Cuomo 's signature .

NPVIC legislation has been introduced in all 50 states . States where only one chamber has adopted the legislation are Arkansas , Connecticut , Delaware , Maine , Michigan , Nevada , New Mexico , North Carolina , Oklahoma and Oregon . In Colorado the legislation has passed in both chambers (in different sessions) . Bills seeking to repeal the compact in Maryland , New Jersey and Washington have failed .

= = = Prospects = = =

Psephologist Nate Silver wrote that , as swing states are unlikely to support a compact that reduces their disproportionate influence , the compact cannot succeed without adoption by " red states " . As of 2016 , all the states that have adopted the compact are " blue states " , ranking within the 14 strongest vote shares for Barack Obama in the 2012 Presidential Election .

= = Bills = =

= = = Currently active bills = = =

The table below lists state bills to join the NPVIC that are currently pending (as of July 20 , 2016) . The " EVs " column indicates the number of electoral votes each state has .

= = = Bills in previous sessions = = =

The table below lists the status of past bills that received a floor vote in at least one chamber of the state 's legislature . Bills which failed without a floor vote are not listed . The " EVs " column indicates the number of electoral votes the state had at the time the bill was introduced . This number may have changed since then due to reapportionment following the 2010 Census .