

ACLU SUPPORTS

THE NATIONAL POPULAR VOTE

■ What is the National Popular Vote Compact?

The National Popular Vote compact provides that state election officials in all states participating in the plan would award their Electoral College votes to the presidential candidate who receives the largest number of popular votes in all 50 states and the District of Columbia. This compact would not go into effect until enacted by states collectively possessing a majority of the electoral vote - 270 of the 538 electoral votes.

Today, all states choose their Electors by direct statewide election, except Maine and Nebraska, which select two Electors by a statewide popular vote and the remainder by the popular vote in each Congressional district. Under the National Popular Vote compact, the Electors would be selected based on a nationwide popular vote.

■ The National Popular Vote Furthers Core Principles of Democracy

Ensuring the Candidate with the Most Votes Wins:

The compact would eliminate the possibility that a candidate who received the most popular votes, but did not receive the requisite 270 Electoral College votes needed to win, could lose the election. This has happened four times in American history: in 1824 (Adams-Jackson), 1876 (Hayes-Tilden), 1888 (Harrison-Cleveland), and 2000 (Bush-Gore).

Furthering the Principle of One Person, One Vote:

By ensuring that each vote cast has an equal impact on the outcome of the Presidential Election, National Popular Vote gives each citizen equal power in the election, regardless of the state in which the voter lives. Instead of voters in a few swing states deciding the outcome, candidates will need to speak to – and listen to – all citizens throughout the country equally.

■ Is the National Popular Vote Compact Constitutional?

Article II, Section 1 of the Constitution provides that: “Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors . . .” Thus, the states have inherent power to select their Electors as they see fit, provided that some other provision of the constitution, such as the Fourteenth or Fifteenth Amendments, is not violated.

The Supreme Court has held that states have *exclusive* power over the appointment and mode of appointment of electors under the Constitution. Therefore, exercising this state power in no way infringes on any area of supremacy of the United States, as there is no federal power to award electoral votes.

■ What Can I Do to Support National Popular Vote?

As of November 2009, five states have enacted the National Popular Vote compact: Hawaii, Illinois, Maryland, New Jersey, and Washington. That amounts to 61 (23%) of the 270 electoral votes needed to activate the compact. National Popular Vote has been introduced with bi-partisan support in a number of other states. You can contact your state legislators and the Governor to support the National Popular Vote bill in your state.

For more information about the ACLU, go to www.aclu.org.

