

Why The National Popular Vote Bill Is Not A Good Choice

A quick look at the National Popular Vote (NPV) approach gives the impression that it promises a much better result in the Electoral College process. *One-person equals one vote* seems simple and the nation is assured that whichever presidential candidate captures the most popular votes nationwide is the winner. Pulling back the curtain for a closer inspection, however, reveals that it focuses on false concerns and shifts the focus away from the key issues that should be primary if our nation, our states, strive to exercise our Electoral College in a more fair and thorough manner.

This document focuses on the following topics:

- **Swing State Concerns** – NPV promises to eradicate swing states.
- **False Polling** – NPV claims polling question results show public opinion support their approach.
- **Equality of Voting** – NPV claims that proportional voting does not provide voting equality.
- **Lack of Political Influence** – NPV claims that proportional voting erodes political campaign influence.
- **State Influence** – NPV claims that states using proportional voting forfeit their political influence to states that don't.
- **Winner-Takes-One** – NPV claims that voting margins in states using proportional voting make those states inconsequential.
- **Undecided Vote** – NPV claims proportional voting could cause presidential elections to be decided by the House of Representatives.
- **Recounting A Tie Vote** – NPV provides no guidance should a close popular vote require a recount.
- **Compact Concerns** – NPV requires states to form a compact, which could be unconstitutional.
- **Reflecting Reality** – NPV would create Electoral College results that are far removed from the popular voting results.

Swing State Concerns: The National Popular Vote bill promises that there would no longer be any swing or “battleground” states. This is actually not true because the focus of the campaigns would be on where the most people reside. Half of the nation resides in just nine states. Those states, and major cities of a few of the remaining states would receive the primary focus of the campaigns. One sixth of the nation resides in 25 states. Those states, half the country, would be largely ignored.

One of the arguments proponents of the National Popular Vote bill make is that there are higher voter turnouts in the battleground states than in the remainder of the country. This is a confusing argument since, on the one hand, they argue against having battleground states and, on the other, they point out how voters are more active in those states. If voters recognize that their vote matters in their state, they are more likely to go to the polls, which supports the Equal Voice Voting approach.

False Polling Results: The polling that the National Popular Vote bill supporters point to is misleading. It is assumed that the results validate that the majority of voters prefer the National Popular Vote bill. Actually, the results point more towards a frustration felt about the current Electoral College than support for the National Popular Vote bill. The question used in most of the polling asks: *How do you think we should elect the President: should it be the candidate who gets the most votes in all 50 states, or the current electoral college system?*

Voters favor a democratic process and realize that the popular vote should point to the winning candidate. The current Electoral College has accomplished that in most instances but for the exceptions of the elections of 1824, 1876, 1888, and 2000. Equal Voice Voting, if it had been used during those years, would have given the presidency to the candidate who also won the most popular votes.

The polling question used can also be interpreted to support Equal Voice Voting over the current system. Few of the general public actually comprehends the full consequences of the National Popular Vote so equating the results from this question as a validation of the NPV approach is misleading.

Equality of Voting: The National Popular Vote proponents are confused when they claim that Equal Voice Voting does not make every vote equal. They point to the idea that more voting weight is given to rural states than those that are more populated. This is true because every state receives electoral votes according to the number of U.S. Congress members it has. These members include the two senators from every state. Thus, every state receives two electoral votes for those members.

Equal Voice Voting within each state is on an equal basis in that all votes gain representation in the electoral vote results. Instead of a winner-takes-all approach, Equal Voice Voting proportions the results to the viable candidates within each state. Thus, voters who cast votes for a candidate that does not win the majority of votes in that state are still counted – their vote matters. Equal Voice Voting is non-partisan equality at work in the democratic process!

Lack of Political Influence: The National Popular Vote proponents argue that any state that institutes proportional voting (Equal Voice Voting) reduces that state's influence in the presidential election process. This is a perspective that argues more for political party control than it does for providing a voting voice for all voting constituents.

Further, the National Popular Vote claims that a state offering only a one or two vote advantage for any candidate is a negative result. Equal Voice Voting argues just the opposite in that it is recognized that the voting nation, on a state-by-state basis, is often nearly evenly divided. Thus, states that offer small winning margins for a candidate are also still providing representation to candidates who do not win the state majority. This is a positive result, not a negative!

While the National Popular Vote points to having the election being won by the candidate who wins the popular vote of the nation, it fails to allow the Electoral College to accurately reflect those results. Yes, the winner of the popular vote will be the winner, but the Electoral College results still matter. For example, Obama won the 2012 election by 3.85% of the popular vote but won the Electoral College by a 126-vote margin! Therefore, the media and the Democratic Party felt justified in saying Obama won by a mandate. That perception simply was not true! If the National Popular Vote is enacted, it can be easily predicted that the Electoral College results will show even wider and inaccurate margins in the future. Such inaccuracies will even further the dismay of the voting public and voting turnout may easily drop from the already paltry 60% to even lower levels.

Some may argue that campaigns will ignore states that can produce only one or two *winning* electoral vote margins over their primary contenders. Of course, this is conjecture for it should also be recognized that many states (39 states in 2012) would be in this position if Equal Voice Voting were enacted. It can also be conjectured that campaigning (and funding) will be more evenly spread among the states to gain those one or two vote margins. The voting will matter and a few votes in any direction could make a difference! It could also be conjectured that such balance of voting results could encourage the voting public to vote, encouraging those who recognize their vote is in the minority to cast their ballots.

State Influence: The National Popular Vote proponents claim that if proportional voting (Equal Voice Voting) were adopted by a few states, those states would give up their political influence to the remaining states that do not adopt it. The argument supports political party control rather than voter participation. Each state, using Equal Voice Voting, would weigh in with their respective constituent representation, thereby influencing the Electoral College result in an honest reflection of its voting constituency.

Political party control in presidential races is elusive. Almost all states have switched political party favorites multiple times in their political history. As an example, Georgia – noted to be typically voting Republican – voted for Carter (Democrat) in 1980. In 1992 and 1996 Georgia again went Democrat in their voting for Clinton. Rather than betting on a winner-takes-all gambit, the voting public should carry the day and be able to be represented, on a proportional basis, in every state. To do otherwise disenfranchises voters for a minority party candidate.

Winner-Takes-One: Some supporters of the National Popular Vote bill have criticized proportional voting (Equal Voice Voting) as a means to shirk the winner-takes-all position for a winner-takes-one result. The current results from the Electoral College awards the winning candidate, within each state, all of a state's electoral votes on a winner-takes-all basis. While this is easily criticized, the National Popular Vote supporters would have us believe that the proportional alternative inverts the results so that each state can only offer a one or two vote advantage for a given candidate. This would cause such states to be of little value for a presidential candidate. It's a tricky rendering of language that skips past good logic to make a more emotional-based case that proportional voting results should be avoided.

A more accurate assessment of the Electoral College results from Equal Voice Voting (proportional results) would be the phrase of *All-Are-Represented*. If Equal Voice Voting were in place, most states would, indeed, offer close elections with only one or two vote margins. But what does that mean for a presidential candidate? Let's look at Oregon as an example.

Oregon has seven electoral votes. In the 2012 election Democrats (Obama) would have won four while the Republicans (Romney) would have won three electoral votes, a difference of only one vote. That one vote margin could easily have been shifted, however. Given that more than 36% of the registered Oregon voters did not vote, it can easily be shown that the Democrats could have won by two votes instead of one. Or, that Republicans could have won by one vote. So the voting margin can easily be shown to be a two-vote difference! (5 to 2 versus 3 to 4) However, if political parties consider this situation among all close election states (39 states would have been within two votes in 2012), the electoral vote differences would be very substantial.

While a *winner-takes-all* approach is to be avoided, the claim that Equal Voice Voting is a *winner-takes-one* scenario is not at all accurate. The key consideration is that all voters would be included in the Electoral College results. So the correct phrase if Equal Voice Voting were enacted would be *All-Are-Represented*.

Undecided Vote: The National Popular Vote proponents point out that using a proportional vote approach (Equal Voice Voting) *could* result in no candidate winning the needed majority (270) of electoral votes. This would cause the process to go to the House of Representatives to decide. While this is a true statement, the operative word in the above argument is *could*. If Equal Voice Voting were used throughout the nation, it can also be argued that there *could* be a larger voter turnout causing wider vote margins in some instances. Again, the operative word here is *could*.

It should also be pointed out that IF the presidential race does not pick a clear winner, our Constitution provides for the House of Representatives to decide the final outcome. This is accomplished by having each state be represented by one vote cast by members of the House of Representatives. Thus, it is not simply a majority of one party in the House of Representatives, but a majority of states represented by a political party that matters in these rare situations.

For example, the 2000 presidential election would have given the majority of electoral votes to Al Gore, who also won the majority of the popular votes, if Equal Voice Voting had been used. However, he would have won 268 electoral votes (Bush 267, Nader 3), which is not the 270 electoral majority vote that is required. It should also be pointed out that the nation did not turn out well to vote in that year, as only 55% of the nation voted. If the nation is this apathetic for such elections, it can also be argued that our Constitutional remedy (House vote) is appropriate.

Recounting a Tie Vote: Typically, a state with a close election does a vote recount. The reason is to determine which candidate gets all of the electoral votes of that state. What happens if the National Popular Vote is in place? If the vote count were close on a national basis, would all states within the National Popular Vote compact with small vote differences be asked to do a recount? Or would states with wide margins be asked to do a recount as well? Certainly, mistakes in the count could occur in any state, so since a national vote tally is what is important, would a recount even be considered? If so, which states would incur a recount cost?

It seems obvious that states that do not adopt the National Popular Vote bill would only incur a vote recount if their state popular votes were close, as is the case with the current method. These individual states are only attempting to find the dominant candidate within their state election and do not point to the results of the national popular vote tally.

Compact Concerns: The National Popular Vote bill calls for several states to form a compact of states, which would cast their electoral votes for the candidate who captures the most popular votes nationally. This raises three concerns: 1) Is it Constitutional? 2) It erases the independence of the states forming the compact. 3) What happens if one state within the compact opts out of the compact in subsequent presidential elections?

Article One, Section 10 of the Constitution states: *No state shall, without the consent of Congress... enter into any agreement or compact with another state, or with a foreign power.* The basic idea is to preserve the independence of the individual states. In fact, one of the great concerns of our Founding Fathers was to preserve such independence and to not allow the Federal government to retain power over the states for a variety of concerns. Thus, the Constitutional provision to for the states to retain separate independence was considered critical. The National Popular Vote bill could infringe on this separate status. Effectively, then, the compact erases the state lines in favor of this new voting territory.

Similarly, states that join the National Popular Vote compact risk forfeiting the voting will of their respective constituents. Certainly, voters who cast ballots for presidential candidates who do not win the national popular vote are not represented in the compact's total result. Markedly, if a state largely leans for a non-popular (nationally) candidate would see all of their electoral votes cast for the candidate that is not popular in their home state. While the National Popular Vote awards the national popular vote candidate the winning electoral votes, the method disenfranchises voters who vote for the less favorite candidate(s).

What happens in future elections should a state within the National Popular Vote compact decide to remove itself from the compact? The agreement to form a compact of states equaling 270 electoral votes would no longer be in place. Such disruption would affect a major block of voters across multiple states by the decisions of a few legislators within one state. State independence would certainly be at risk.

Reflecting Reality – One of the key advances in our modern technological age is that businesses and other endeavors have greater accuracy in the data collected and the reporting from such data. The Electoral College results should not be any different. These results should closely reflect how our nation votes. Few businesses or other endeavors that rely on metrics would long survive if the results they gathered reflected reality as poorly as our Electoral College currently provides. This is especially true by the results the National Popular Vote approach promises.

There is a saying that perception creates reality. It is often the case that truth is set aside by the majority to go with a perception, while the truth is ignored. Currently, the Electoral College results do not reflect how the people actually vote. For example, Obama won the popular vote in 2012 by only a 3.85% margin. Yet, he enjoyed a 126 electoral vote victory, which is a 23.4% margin (more than six times greater!). The news media and the Democratic Party, then, cling to the notion that Obama won by a mandate – a commanding victory! It's not true, of course, but the perception was created and so reported and the slip in reality has become truth.

What would have happened if the National Popular Vote had been in place in 2012 with all Democrat-leaning states?

For that to happen, more states would have to join the National Popular Vote compact so that collectively they could equal 270 votes. As of this writing, there are nine states (California, Hawaii, Illinois, Massachusetts, Maryland, New Jersey, New York, Rhode Island, and Vermont) and Washington, D.C. already in the compact and offer 165 votes. These all voted for Obama in 2012, so if we include more Democratic-leaning states to arrive at the 270 magic number, we could include Colorado, Florida, Michigan, Nevada, Ohio, Oregon, and Pennsylvania. That adds another 105 electoral votes to bring the grand total to 270 electoral votes. What would the Electoral College margin of victory be in this scenario?

If Obama won the popular vote: Because we used all Democratic-leaning states in this scenario, the Electoral College results would have been exactly the same as we experienced in 2012. Obama would have still won by 126 electoral votes.

If Romney won the popular vote: Since Romney lost by only 3.85% of the popular vote, it's well within reason to suggest that the results could have shifted by a mere difference of 2% of the popular vote. Romney would have won 476 electoral votes to Obama's 62! Obama would have captured 11.5% of the electoral votes, giving Romney a perceived 88.5% winning margin! The temptation to report this considerable election advantage would be hard to ignore by the media and Republicans.

What would have happened if the National Popular Vote had been in place in 2012 with a mix of Democrat and Republican-leaning states?

Suppose that the states added to the mix were Republican-leaning states, so the states included in the National Popular Vote pool would be more evenly divided. If we add Alabama, Georgia, Kentucky, Missouri, North Carolina, South Carolina, and Texas, along with the aforementioned Democrat-leaning states already in the compact, the total would be 270 electoral votes. How would the election have turned out in 2012?

If Obama won the popular vote: Given the compact of 270 electoral votes above, Obama would have won 437 electoral votes to Romney's 101. Obama would have captured 81% of the electoral votes to Romney's 19%. It hardly would have reflected how the people actually voted!

If Romney won the popular vote: Romney would have won 371 electoral votes to Obama's 167. That would give him a 69% to 31% electoral vote advantage! The media and the winning political party (Republican) would be hard pressed not to turn the false return into a firm and persuasive political truth.

The point of all of this conjecture is to show that it is vital that the Electoral College results accurately reflect how the people vote. While the National Popular Vote advocates correctly point out that the candidate who wins the popular vote will win the election, another harsh reality is that a false result sends a strong and dominant message that a winning candidate would be victorious by incorrect results. The media and the winning political party would convert such incorrect perceptions into political truth to sway the general public. Election results matter not just because they elect a President (we already accomplish this) but also because they point to the voice of the people (the current system fails this concern). False readings of such results can have consequences the voting public doesn't deserve.