

National Popular Vote

Electing the President by Popular Vote
without Amending the U. S. Constitution

January 5, 2021

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Topics

- Problems with our current electoral system.
- How the National Popular Vote bill will solve these problems.
 - How it will ensure that the winner of the popular vote across all 50 states and DC will always win the Electoral College.
 - Why it requires no change to the U. S. Constitution.
- Status of National Popular Vote in Virginia.
- Where to learn more.
- How you can help.

Second Place Winners

- Our current system has enabled two of our last four Presidents to come into office without winning the most popular votes.
- Five of our 46 presidents came into office this way (Trump, GW Bush, Harrison, Hayes, and JQ Adams.)
- Less well-known are some “near misses”, for example:
 - 1976: Carter led by 1.6M; but a shift of 9K votes in HI & OH would have re-elected Ford.
 - 2004: Bush led by 3.3M; but a shift of 59K in OH would have elected Kerry.
 - 2020: Biden led by 7M; but a shift of a total of 32K in AZ, GA, WI, & NE would have re-elected Trump.
- Another nightmare: If no candidate gets 270 electoral votes, the President is elected by a process that has not been resorted to since 1825.

Another Nightmare, What if No Candidate Gets 270?

- Contingency procedure would elect (now per 12th Amendment).
- President is chosen by the (newly elected) House of Representatives.
 - Each state gets one vote (DC gets none). Winner must get 26 votes.
 - Although Democrats hold a majority of House seats in 2021, Republicans control 27 state delegations. (*Dems hold 20, 3 are split*).
 - Has happened twice (1801 and 1825).
 - Close calls in 2004 & 2020 : shifts of less than 23K votes would have given each candidate 269 and sent the election to the House.
 - 1976 close call: shift of 26K votes and a renegade elector sticking to his vote for Reagan would have given Carter 268 and Ford 269. Not tied, but neither with 270.
- Vice President not getting 270 electoral votes would be elected by a different process in the Senate (so could be from different parties).

Why Do Second Place Candidates Win?

- The U. S. Constitution does not give Americans the right to a direct vote for President and Vice President.
- Instead, the President and Vice President are chosen by a small group of persons known as presidential electors.
 - At present there are 538 electors.
 - DC has 3 electors.
 - Virginia has 13 electors (for our 2 Senators + 11 Representatives).
- The U.S. Constitution leaves the method of appointing presidential electors entirely up to the state legislatures.

State Legislatures Decide How to Award their Electoral Votes

- **Section 1 of Article II of the U. S. Constitution:** “...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...”
- States have used many methods over the years.
- Massachusetts has changed 10 times.
- At present, Maine and Nebraska award their electors using a congressional district method. Two are elected at large by the whole state and the others are elected by congressional district.
- All other states and DC use a winner-take-all method, which awards all their electors to whichever candidate wins the popular vote in their state.

The Founding Fathers Did Not Create Our Modern System

- The current system was not debated at the Constitutional Convention, was not discussed in the Federalist Papers, and did not become the most common system among the states until the Founding Fathers were long gone.
- The Founding Fathers established the Electoral College without any instructions on how states should use it.
- In the first presidential election, only five states allowed citizens to vote for the president in any form.
- In 1800, when Jefferson won our fourth presidential election, only two states allocated electoral votes based on the now-dominant winner-take-all laws.
- It wasn't until the 10th election for President that a majority of states used winner-take-all laws, meaning the founders had been dead for 30 years by the time our current system was in place.

Winner-Take-All Problems

- The state winner-take-all laws lead to two major problems:
 - They are prone to electing second place presidents.
 - A few swing states decide elections (and get presidential perks):
 - Voters in other states become irrelevant. If you live in a state that is solidly red or blue, your welfare can safely be ignored.
 - If you do not live in a swing state, not only are you ignored, but your state gets shortchanged. Presidents (of both parties) use their discretionary funding authority to send federal dollars to swing states.
 - The current system rewards voters who live in states which happen to have a nearly equal number of Republicans and Democrats at the time.
 - Virginia is not a swing state at the moment.

Congressional-District Method is Not the Solution

- Universal adoption of Maine and Nebraska's congressional district method may at first seem attractive, but wouldn't actually solve any problems.
 - It would add incentive for gerrymandering.
 - It does not equalize voter worth.
 - It does not lead to one-person-one-vote.
 - We would go from swing states to swing districts (VA 9th would not be not one).

National Popular Vote Will Solve These Problems

- The National Popular Vote bill is an agreement among a group of states and the District of Columbia to award all their respective electoral votes to whichever presidential candidate wins the most popular votes in all 50 states and the District of Columbia.
- It will go into effect when enacted by states possessing a majority of the electoral votes—that is, enough to elect a President (270 of 538).
 - At that time, every voter in the country will acquire a direct vote for a group of at least 270 presidential electors who support their choice.
 - All of this group of 270+ presidential electors will be supporters of the candidate who received the most popular votes in all 50 states and DC—thus making that candidate President.
- It does not require an amendment to the U. S. constitution, nor does it abolish or circumvent the electoral college. It preserves state control over elections.

Review of Key Points

- The agreement does not take effect until adopted by states possessing a majority of the electoral votes (enough to elect a President). Here's why:
 - Giving away a state's electoral votes to the 50-state winner makes no sense without the corresponding commitment by other states to deliver a benefit.
 - The benefit being that the President will always be the candidate receiving the most popular votes in all 50 states (and DC).
- There are two groups of states to keep in mind:
 - States that adopt the bill.
 - All 50 plus DC (their popular votes will determine the winner.)
- Candidates will need to campaign in all 50 states, not just in states that adopt the agreement, because every vote in every state goes into determining the winner.

Where Currently Enacted

- The National Popular Vote bill has been enacted by 16 jurisdictions possessing 196 of the 270 electoral votes needed to activate it.
- It has been enacted in small, medium, and large states:
 - 5 small jurisdictions (Delaware, Hawaii, Rhode Island, Vermont, and the District of Columbia)
 - 7 medium-size states (Colorado, Connecticut, Maryland, Massachusetts, New Mexico, Oregon, and Washington state)
 - 5 big states (New Jersey, Illinois, New York, and California)
- “The National Popular Vote bill will take effect when enacted by states possessing 74 additional electoral votes.

Status in the Virginia Legislature

- 2020
 - House of Delegates passed a National Popular Vote bill.
 - Senators on the Privileges and Elections Committee carried the bill over to a planned hearing after the November election. However, because the special session ran so long, the committee did not meet.
- 2021 (short session, starting Jan 13)
 - The bill will be re-introduced in both the House and the Senate.
 - SB1101 (Adam Ebbin)
 - Mark Levine will introduce a bill in the House of Delegates.

Where to Get More Information

- Whether or not you support National Popular Vote, you may want to learn more.
- If you believe that our current method should be preserved, you can make sure that your concerns are valid.
- Resources at www.NationalPopularVote.com include:
 - 13 short videos that address concerns (“myths”), such as big cities, big states, small states, recounts, fraud, faithless electors, constitutionality, and worries about the two-party system.
 - Links to past and future interviews and webinars (under Events).
 - “*Every Vote Equal*” book (1000+ pages) is available for free download. It addresses rationales, strategies, plus legal & administrative issues. It addresses 131 concerns in detail.
- Wikipedia has a good 32 page article. Look for “National Popular Vote Interstate Compact”.

Advocacy

- National Popular Vote is endorsed nationally by the League of Women Voters, NAACP, Sierra Club, Urban League, and Common Cause.
- HOW YOU CAN HELP:
 - Tell your friends about National Popular Vote.
 - Write a letter to the editor.
 - Join the grassroots volunteers
www.NationalPopularVote.com/Volunteer
 - Most Importantly
 - Urge your state Senators and Delegates to support the bill.
 - Not all Democratic legislators publicly support the bill.
 - Email your legislators at NationalPopularVote.com/VA

Recap

- The current system has enabled 5 of our 46 presidents to come into office without having won the most popular votes in the country as a whole.
- The current state-by-state winner-take-all method of awarding electoral votes causes voters in 3/4 of the states to be ignored.
- The National Popular Vote bill will guarantee that *every* voter in *every* state will be politically relevant in *every* presidential election.
- The National Popular Vote bill will make every American's vote equal.
- Will guarantee the U.S. presidency to the candidate who receives the most popular votes in all 50 states and D.C.

Two near-misses
and two wrong
winners in
6 elections!!



Again?

