

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

February 23, 2012

8:09 a.m.

MEMBERS PRESENT

Representative Bob Lynn, Chair
Representative Wes Keller, Vice Chair
Representative Paul Seaton
Representative Peggy Wilson
Representative Max Gruenberg
Representative Pete Petersen
Representative Kyle Johansen

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 33

Urging the United States Congress and the President of the United States to work to amend the Constitution of the United States to prohibit corporations, unions, and individuals from making unlimited independent expenditures supporting or opposing candidates for public office.

- MOVED CSHJR 33(STA) OUT OF COMMITTEE

HOUSE RESOLUTION NO. 10

Supporting the Electoral College and opposing the Agreement Among the States to Elect the President by National Popular Vote interstate compact.

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HJR 33

SHORT TITLE: AMEND U.S. CONST RE CAMPAIGN MONEY

SPONSOR(S): REPRESENTATIVE(S) GARA

02/01/12	(H)	READ THE FIRST TIME - REFERRALS
02/01/12	(H)	STA, JUD
02/09/12	(H)	STA AT 8:00 AM CAPITOL 106
02/09/12	(H)	Scheduled But Not Heard

02/14/12 (H) STA AT 8:00 AM CAPITOL 106
02/14/12 (H) Heard & Held
02/14/12 (H) MINUTE(STA)
02/23/12 (H) STA AT 8:00 AM CAPITOL 106

BILL: HR 10

SHORT TITLE: OPPOSE NAT'L POPULAR VOTE FOR PRESIDENT
SPONSOR(S): REPRESENTATIVE(S) KELLER

01/17/12 (H) READ THE FIRST TIME - REFERRALS
01/17/12 (H) STA
02/23/12 (H) STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

REPRESENTATIVE LES GARA
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HJR 33 as sponsor.

ARTHUR MARTIN
Hollis, Alaska

POSITION STATEMENT: Testified on behalf of himself in
opposition to HJR 33.

SHEILA FINKENBINDER
Sitka, Alaska

POSITION STATEMENT: Testified on behalf of herself in
opposition to HJR 33.

ERNEST PRAX, Staff
Representative Wes Keller
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HR 10 on behalf of Representative
Keller, sponsor.

TARA ROSS, Author
Enlightened Democracy: The Case For The Electoral College
Dallas, Texas

POSITION STATEMENT: Testified on behalf of herself in support
of HR 10.

TRENT ENGLAND, Vice President of Policy
Freedom Foundation
Olympia, Washington

POSITION STATEMENT: Testified during the hearing on HR 10.

JOHN SAMPLES, Ph.D., Director
Center for Representative Government
Cato Institute
Washington, D.C.

POSITION STATEMENT: Testified during the hearing on HR 10.

LAURA BROD
Mountain View, California

POSITION STATEMENT: Testified during the hearing on HR 10 on behalf of the National Popular Vote organization in California.

ACTION NARRATIVE

[8:09:33 AM](#)

CHAIR BOB LYNN called the House State Affairs Standing Committee meeting to order at 8:09 a.m. Representatives Keller, Seaton, P. Wilson, Petersen, Gruenberg, and Lynn were present at the call to order. Representative Johansen arrived as the meeting was in progress.

HJR 33-AMEND U.S. CONST RE CAMPAIGN MONEY

[8:10:21 AM](#)

CHAIR LYNN announced that the first order of business was HOUSE JOINT RESOLUTION NO. 33, Urging the United States Congress and the President of the United States to work to amend the Constitution of the United States to prohibit corporations, unions, and individuals from making unlimited independent expenditures supporting or opposing candidates for public office.

[8:10:28 AM](#)

REPRESENTATIVE LES GARA, Alaska State Legislature, presented HJR 33 as sponsor. He explained the changes that would be made under the proposed committee substitute (CS), Version 27-LS1231\I, Bullard, 2/16/12. He said that in response to Representatives Seaton and Gruenberg, the words "supporting or opposing candidates for public office" appear following "expenditures", on page 2, lines 12-13, as well as in the bill title. He related that in response to Representative Johansen, the word "unions" was added following the word "corporations", on page 1, line 7. He said the reference to "unlimited expenditures by individuals" was deleted, so that under Version

I, the focus is on the Citizens United v. Federal Election Commission, 180S. Ct.876(2010) ("Citizens United") case, which related to unlimited contributions by corporations, unions, and other organizations.

CHAIR LYNN interjected that [corporations, unions, and other organizations] were defined as "persons" by the U.S. Supreme Court.

REPRESENTATIVE GARA stated his personal belief that unlimited contributions by individuals should be regulated; however, he said he thinks the committee made "a fine call" by limiting HJR 33 to a Citizens United resolution. He noted that he fixed "a typographical error" on page 1, line 13, to clarify that before the Citizens United ruling, states and Congress had the option to ban unlimited independent expenditures from corporations and unions.

[8:13:17 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt the proposed committee substitute (CS), Version 27-LS1231\I, Bullard, 2/16/12, as a work draft. There being no objection, Version I was before the committee.

[8:13:49 AM](#)

REPRESENTATIVE GARA opined that corporations and unions should not be considered "persons" for the sake of elections, and society should be able to limit the amount of expenditures that flood into political campaigns. He relayed that on the federal level, "the candidate with the most money wins ... 95 percent of the time."

CHAIR LYNN ventured the same is true on the local level.

REPRESENTATIVE GARA stated that the intent of the proposed resolution is "to help build a movement nationally for Congress to amend the Constitution, to reverse the Citizens United ruling," so that states and Congress have the option to regulate corporate and union contributions. He said, "I don't see this as a benefit for either side of the aisle. There are those of us who are going to be targeted by corporations, there are those who will be targeted by unions" He pointed out that contributions to candidates are limited. He opined, "The moment you have ... \$500 million of contributions going into a

Presidential campaign from outside sources is the moment you have less accountability in the political system."

[8:16:48 AM](#)

REPRESENTATIVE GARA, in response to Chair Lynn, confirmed that HJR 33 would give states the discretion to decide whether to regulate contributions from corporations and unions. He conveyed that in the past, Alaska exercised that discretion.

[8:17:21 AM](#)

REPRESENTATIVE GARA, in response to Representative Petersen, confirmed that HJR 33 is encouraging an amendment to the U.S. Constitution. He said there are two ways to amend the Constitution, but the only way that has worked in the past is by a vote of two-thirds of each house of Congress, followed by ratification by three-quarters of the states.

[8:18:04 AM](#)

REPRESENTATIVE SEATON noted that Representative Gara had consistently used the word "contribution." He offered his understanding that Citizens United took away the ability to limit independent expenditures, but did not affect the ability to make political campaign contributions to candidates.

REPRESENTATIVE GARA confirmed that is correct. He said Citizens United opened the floodgates "to unlimited contributions by corporations, unions, and organizations for independent expenditures."

[8:19:45 AM](#)

CHAIR LYNN offered his understanding that HJR 33 would not affect contributions from individuals or political action committees (PACs).

REPRESENTATIVE GARA confirmed that is correct. He said Alaska currently has strong limits on direct contributions to candidates.

[8:20:47 AM](#)

ARTHUR MARTIN specified that although he is an intern for Representative P. Wilson, he is testifying on behalf of himself in opposition to HJR 33. He indicated that he was initially in

favor of the proposed joint resolution until he began researching information regarding Citizens United. He offered his understanding that the issue of "corporations being people" is a separate argument under the Fourteenth Amendment and is not related to Citizens United. He said Citizens United dealt with the First Amendment and questioned why corporations and unions, which held the same First Amendment rights as individuals and non-profit organizations, did not also share the right to make independent expenditures.

Mr. Martin opined that there are no facts or data to justify any of the statements made in HJR 33. He directed attention to page 2 of a handout in the committee packet containing information published by OpenSecrets.org, to a chart showing total outside spending for election cycles from 1990 to 2012, and he offered his understanding that the chart does not show an increase in independent expenditures made since the Citizens United case.

[8:24:01 AM](#)

MR. MARTIN directed attention to the "**WHEREAS**" clause, on page 2, lines 1-5 of HJR 33, which read as follows:

WHEREAS much of the hundreds of millions of dollars being spent by corporations, unions, and other organizations since the ruling of the United States Supreme Court in Citizens United v. Federal Election Commission is going to negative ads, which often misinform voters rather than lead to a productive discussion of the states' and nation's most important issues; and

MR. MARTIN indicated the proposed legislation includes no data to support the statement that much of the money is going to negative advertisement. Regarding the issue of misinforming voters through negative advertisement, Mr. Martin said that assumes that voters are "empty vessels." He indicated that people's votes are guided by their religion, family values, and "where we come from," and he opined that the assertion that corporations or unions will unduly influence the opinion of voters is unfounded.

MR. MARTIN questioned what the "harmful effects of Citizen United", as referred to on page 2, line 6 of HJR 33, would be. In regard to the proposed amending of the U.S. Constitution, he questioned which part of the U.S. Constitution would be amended. Mr. Martin, in response to the "**BE IT RESOLVED**" portion of the

bill [on page 2, lines 11-14, said it is not the job of the President to propose amendments to the U.S. Constitution; therefore, he said that language needs to be removed.

[8:27:18 AM](#)

MR. MARTIN concluded by asking the committee to consider whether there really is a problem wherein corporations and unions are unduly influencing elections and, if there is a problem, is rewriting the U.S. Constitution the right answer? He urged the committee not to support HJR 33. He said he provided alternatives, listed on a handout in the committee packet, including: requiring shareholders to approve political spending by their corporations, requiring corporations to disclose money used to influence public opinion, requiring the chief executive officer of a corporation that pays for a political commercial to appear as the sponsor, and strengthening Federal Election Commission (FEC) regulations to increase transparency and disclosure. He talked about an idea to have "democracy facts," listed, in much the same format as nutritional facts are listed for food items.

[8:30:28 AM](#)

CHAIR LYNN pointed out that opinions are, by nature, subjective and based on perception of fact. He said, "An ad that is perceived as negative by one is perceived as truth by the other." He ventured that as a citizen of the U.S., the President could submit a request for an amendment to the U.S. Constitution.

[8:31:37 AM](#)

REPRESENTATIVE GRUENBERG pointed out that President Abraham Lincoln proposed the 13th, 14th, and 15th Amendments to the U.S. Constitution.

MR. MARTIN, in response to a question, said he is a student at the University of Alaska, Fairbanks.

REPRESENTATIVE GRUENBERG complimented Mr. Martin for using non-traditional logic in his testimony.

[8:34:00 AM](#)

REPRESENTATIVE SEATON said although he appreciates Mr. Martin's proposed solutions, they would be actions of Congress, and the

issue before the committee concerns financial disclosure and contribution limits that were embedded by the FEC and Congress but were overturned by the U.S. Supreme Court.

[8:35:08 AM](#)

MR. MARTIN responded that the aforementioned alternatives would not go against the ruling made by the U.S. Supreme Court in Citizens United, but would "create more oversight on these corporations."

REPRESENTATIVE SEATON said corporations are creations of the individual states, and he offered his understanding that "this" would require Congress to come in, in federal elections, and "regulate what individual shareholder actions and ... rights would be under the varying states' corporation laws."

MR. MARTIN said HJR 33 is asking Congress to alter the U.S. Constitution and the Bill of Rights, and he said he is uncomfortable with that. He said corporations are people who have come together and have certain rights, and he posited that they are not all "money-seeking." He said Citizen United was about letting the people in corporations express themselves under the rights they already have.

[8:37:58 AM](#)

REPRESENTATIVE PETERSEN offered his understanding that Mr. Martin said that negative advertising is not effective, and he ventured that Newt Gingrich would probably disagree. He said studies have shown that people remember negative advertising after fewer repetitions than positive advertising. He said, "They wouldn't be spending tens of millions of dollars on negative ads if they didn't work." Regarding Mr. Martin's previous remark that there was not much of an increase between the 2008 and 2010 [campaign] expenditures, he pointed out that 2008 was a Presidential election year, and Presidential elections, in general, have more expenditures than non-presidential years. He said he thinks that by the end of 2012, the amount of campaign expenditures could easily double, or even triple, what was spent in 2008.

[8:40:00 AM](#)

SHEILA FINKENBINDER stated that although she serves as a staff member to Representative P. Wilson, she was testifying on behalf of herself in opposition to HJR 33. She opined that the

language of the "WHEREAS" portions of HJR 33 are "assumptions that are believed by many but are not based on research that demonstrates they are true." She said even assuming that the statements are true, she believes asking Congress to create a Constitutional amendment is not the best solution.

MS. FINKENBINDER posited that many "reasonable people" would not agree that the influence of large amounts of money in political campaigns harms the ability of the average citizen to have a voice in his/her government, but would instead argue that people continue to have the ability to weigh the truth in advertising and make independent decisions regarding how to vote. She stated that several reports have shown that the Citizens United decision has had only an incremental effect on campaign finance, and that large campaign expenditures occurred before the U.S. Supreme Court decision. Ms. Finkenbinder argued that there has not been a breakdown in the electoral process "in spite of all that money." She said whether ads run by corporations are negative is a debatable point, and she opined that "we" have managed to "do our own thinking" and have elected "decent and credible candidates in spite of all this." She indicated that there has been no evidence to suggest that the corporate media should have its First Amendment rights infringed.

MS. FINKENBINDER said Congress has had a number of options to "clean up campaign finance," as previously mentioned by Mr. Martin, "almost since the very day the Citizens United decision was made," and she ventured that these options will continue to be researched and debated until solutions are found.

[8:44:08 AM](#)

MS. FINKBINDER argued that amendments to the U.S. Constitution can be incredibly complicated, controversial, and time-consuming. Further, she said only 27 Constitutional amendments have been adopted in the U.S., out of the 10,000 amendments that have been proposed; therefore, she ventured, the chances of the amendment proposed under HJR 33 happening are small. She echoed Mr. Martin's remarks regarding the inappropriateness of asking the President to initiate the amendment process, and she indicated that support for this comes from "a document directly from the government."

[8:46:33 AM](#)

REPRESENTATIVE GARA, regarding the argument that there is no evidence that the public opposes unlimited corporate and union

contributions, stated that every poll his staff found shows the opposite to be true, and he said he could provide those polling results to the committee. Regarding the point made that the President has no role in the amending of the U.S. Constitution, he echoed Representative Gruenberg's remark that President Lincoln was the one who proposed an end to slavery. He said President Lincoln had to work with Congress, who had to enact the amendment, and he opined that the President should be active in those issues in which he/she believes. Regarding the remark by Mr. Martin that there is no evidence that Citizens United has had any impact, he echoed the previous comment made by Representative Petersen that in Presidential election years, independent expenditures and campaign contributions are much higher. He said Citizens United was adopted in 2010 - a non-Presidential year. He said, "Four years before that - 2006 - independent expenditures rose from \$68 million to \$304 million. That's a substantial increase in two, successive non-Presidential elections." He said "there is every expectation" that by the end of the 2012 Presidential election, it will be shown that in Presidential elections, as well, independent expenditures have increased.

REPRESENTATIVE GARA, regarding the suggestion that "we don't know what corporate contributions had been," explained that is because corporations don't have to reveal what they spend in independent expenditures. He said he thinks the same probably applies to unions. He said, "They put money into fake groups or groups that have nice names," such as "People for the American Way," which does not reveal who donors to groups are.

REPRESENTATIVE GARA stated that he thinks the proposed joint resolution is factually accurate, with some opinion, as is put in resolutions, and he would "leave it to the committee's discretion" whether or not to pass HJR 33. He commented that even though he does not agree with the testimony heard today, it was well-reasoned. He stated, "It is easier to say somebody's not telling the truth; its' harder to address somebody's good argument head on."

[8:50:09 AM](#)

CHAIR LYNN closed public testimony.

[8:50:23 AM](#)

REPRESENTATIVE P. WILSON indicated that since [Citizens United], campaign expenditures have been more transparent.

[8:51:15 AM](#)

REPRESENTATIVE GRUENBERG moved to report CSHJR 33, Version 27-LS1231\I, Bullard, 2/16/12, out of committee with individual recommendations and the accompanying fiscal notes.

[8:51:23 AM](#)

REPRESENTATIVE KELLER objected. He posited that HJR 33 would affect First Amendment rights and "gets ... onto a slippery slope that we don't want to be on." He said there are many ways that people are influenced, including by on line social networking, and he questioned where the limit on control may end up. He stated that corporations are made of people, and to restrict them is to make the statement that "people aren't smart enough to figure out what's going on."

[8:53:00 AM](#)

REPRESENTATIVE JOHANSEN expressed appreciation for the sponsor's passion on the issue, even though he said he cannot align himself with it philosophically.

[8:53:37 AM](#)

REPRESENTATIVE SEATON stated that corporations are economic creatures of various states, and reiterated that in general, their sole duty is to make money. Following Citizens United, the board of directors and the management can use corporate funds to oppose or support certain candidates to align with their economic interests, but not at the unanimity of the shareholders of those corporations. He said he is not opposed to people forming associations and PACs "for the purpose of putting their money together to do things"; however, he stated that he finds it problematic when political choices are made by management that are not related to the owners of the company and do not benefit the shareholders' interests. He said he thinks the only way to get around this is to revisit the restrictions that have been around for 100 years wherein economic corporations do not have political free speech in the same way an individual does. He stated his support for HJR 33.

[8:56:03 AM](#)

CHAIR LYNN commented that foreign nationals sometimes serve on the boards of corporations.

[8:56:24 AM](#)

REPRESENTATIVE PETERSEN recalled that when the Citizens United decision was made, the majority of the feedback he received from his constituents was in opposition to the decision. He said that when the House State Affairs Standing Committee previously worked on legislation that required corporations to disclose who was behind expenditures, he received numerous communications from constituents congratulating the committee for doing such good work. He stated his belief that the people who voted for him would like him to support HJR 33; therefore, he stated his support of the proposed legislation.

[8:57:27 AM](#)

REPRESENTATIVE JOHANSEN, regarding Representative Seaton's prior comment, stated that he thinks the interests of corporations and shareholders are one and the same. Further, he said an individual has the choice to socially invest in corporations with similar philosophies.

[8:58:23 AM](#)

REPRESENTATIVE GRUENBERG stated that his motion was not on the merits of the proposed legislation, but on the right to debate the bill. He opined that it is ironic and unfortunate that those supporting the right of corporations to participate in the political process and exercise the right of free speech would vote against allowing HJR 33 to move to the full body, so that the full body can exercise its right to debate the bill. He said he probably would not feel so vehement if the bill were not about the right of free speech.

[9:00:09 AM](#)

A roll call vote was taken. Representatives Seaton, Gruenberg, Petersen, and Lynn voted in favor of the motion to report CSHJR 33, Version 27-LS1231\I, Bullard, 2/16/12, out of committee with individual recommendations and the accompanying fiscal notes. Representatives P. Wilson, Keller, and Johansen voted against it. Therefore, CSHJR 33(STA) was reported out of the House State Affairs Standing Committee by a vote of 4-3.

[9:00:45 AM](#)

REPRESENTATIVE P. WILSON commented that she is proud of her staff.

[9:01:21 AM](#)

REPRESENTATIVE GRUENBERG, to the previous testifiers, paraphrased Patrick Henry, by saying, "I may not always agree with what you say, but I certainly support your right to say it."

[9:01:38 AM](#)

The committee took an at-ease from 9:01 a.m. to 9:04 a.m.

[9:04:01 AM](#)

HR 10-OPPOSE NAT'L POPULAR VOTE FOR PRESIDENT

[9:04:04 AM](#)

CHAIR LYNN announced that the last order of business was HOUSE RESOLUTION NO. 10, Supporting the Electoral College and opposing the Agreement Among the States to Elect the President by National Popular Vote interstate compact.

[9:04:18 AM](#)

REPRESENTATIVE KELLER, as sponsor, introduced HR 10 and noted that there were a number of people on line waiting to testify. He opined that the current electoral voting system is fair if it is the states that are voting, but not fair if it is the people that are voting. He said this is an issue of democracy, and he talked about the balance between the sovereignty of the states and the sovereignty of the federal government. He opined that with its small population, Alaska would lose power if it were to change to a National Popular Vote (NPV).

[9:08:10 AM](#)

ERNEST PRAX, Staff, Representative Wes Keller, Alaska State Legislature, presented HR 10 on behalf of Representative Keller, sponsor. He stated that the intent of HR 10 is to voice the concern of the Alaska House of Representatives that an NPV would conflict with the U.S. Constitution and founding Federalist and Republican principles and would unlikely increase Alaska's influence in deciding future presidential elections. He relayed that there are multiple, practical, and constitutional conflicts

related to the proposed National Popular Vote Interstate Compact (NPVIC), and said HR 10 would reaffirm that the Electoral College "remains the most prudent and proper means of electing the President of the United States." He clarified that the NPVIC proposes to replace the Electoral College system of voting based on the combined will of the states with a system using popular vote.

MR. PRAX stated that the most common argument against the current Electoral College system of voting is that it is not based on the idea of every vote being equal and can result in a President being elected, despite losing the popular vote, the most recent example being the 2000 General Election.

MR. PRAX listed the shortcomings inherent in the proposed compact: First, he said, Alaska could lose up to 55 percent of its electoral influence. Second, he indicated, the political motives of the states that have thus far ratified the compact - on the East and West Coasts - differ from Alaska's. Third, he said, the compact is unlikely to change the "supposed problem of battleground states," and there likely will not be "attention by Presidential candidates focused on safe states like Alaska." Fourth, he relayed, the compact is "likely to shift focus away from the current system, where candidates are incentivized to establish broad geographic coalitions of support" and "shift the attention towards densely populated areas" - particularly in areas where the candidate may have a "strong showing."

[9:12:48 AM](#)

MR. PRAX admitted that the Electoral College is not a perfect system. He quoted Alexander Hamilton as saying, "The Electoral College, if not perfect, is at least excellent." He said the proposed compact is "an idea that works well in a bubble"; however, it has many shortcomings such that it will likely not "work as advertised." He stated that the compact incorrectly assumes that American people speak with a unified political voice, and it depends on too many variables to function properly. Mr. Prax concluded, "Just because electing the President of the United States by popular vote may ... look, feel, or sound good, it does not necessarily therefore mean that it is good."

[9:14:53 AM](#)

REPRESENTATIVE SEATON said Article 2, Section 1, of the U.S. Constitution gives states the authority to award their electoral

votes as determined by the legislatures of those states. He asked Mr. Prax if he is disputing that the Alaska State Legislature has the right and responsibility to determine the basis of the allocation of its Electoral College votes.

MR. PRAX urged Representative Seaton to look beyond "that single section of the Constitution" to the intent of the Founding Fathers and question whether "that proposed action" complies with "the spirit of the rest of the Constitution." He indicated that there is a PowerPoint presentation, which contains a more comprehensive answer to that question.

[9:17:36 AM](#)

TARA ROSS, Author, Enlightened Democracy: The Case For The Electoral College, testified on behalf of herself in support of HR 10. She said it is important to remember that although Alaska is large in size, it has three electoral votes and a population of 722,000, while the population of the U.S. is 311 million. She said it is difficult for Presidential candidates to travel to Alaska, given its distance from the Lower 48 states. She said Alaska needs the protection offered by the Electoral College. She said during the Constitutional Convention, the Founding Fathers focused not only on giving the people of the nation a means by which to govern themselves, but also on protecting minority interests and the interests of small states from "the tyranny of unreasonable majorities." She said a pure democracy, in which 51 percent of the people can rule the other 49 percent, would not accomplish this objective. Ms. Ross said the Founding Fathers combined the best elements of democracy, republicanism, and federalism. Because of this, the U.S. has a system that incorporates protections, such as the one state/one vote of the Senate, Presidential veto, and the Electoral College.

MS. ROSS stated that the NPV organization has been telling Alaskans that a direct national election would: bring more attention to Alaska, because every vote would be equal; give Alaska the same legal weight as California; and encourage Presidential candidates to "flock to the state in droves." She said this information is wrong. She admitted perhaps Alaska currently does not receive the same attention as other states, but posited that it does not follow that eliminating the Electoral College will improve the situation. She said the U.S. Census shows the population of California is 37.7 million, and California has 55 electoral votes. She said California has more than 52 times the population of Alaska, but only 18 times the

number of electoral votes. She highlighted the populations of the two states to emphasize the effect of an NPV.

9:22:10 AM

MS. ROSS mentioned other legal and Constitutional problems, which she said she does not have time to address presently, but she offered her understanding that the committee should have a white paper she submitted.

9:23:01 AM

REPRESENTATIVE GRUENBERG remarked that the Presidential race is different from other races because of the Unit Rule, which means that the President is not elected by the people, but by states.

MS. ROSS said that is right, but said she thinks that is a good thing. She reiterated that the Electoral College offers democracy within federalism. She proffered that the Electoral College system ensures that Presidential candidates have to "broaden their base of appeal," rather than simply focusing their campaigns on heavily populated areas; they must focus on achieving "simultaneous victory in multiple parts of the country." She opined that [the Electoral College] is a great system that has worked out well.

9:25:31 AM

TRENT ENGLAND, Vice President of Policy, Freedom Foundation, related that he directed a state project, which he then convinced the Freedom Foundation to adopt. He stated his belief that the Electoral College is an important institution in this country. He said this debate is about how the country elects the person who is the leader of the free world. He said the U.S. has a republic, which is a system of government that uses representation and has legal processes and structures built into it to provide the stability and moderation that direct democratic systems have never been able to achieve. There are provisions in the U.S. Constitution that explicitly do not allow the majority to have its way.

9:28:48 AM

MR. ENGLAND talked about federalism being a unique quality of the U.S., and proffered that the U.S. Senate is the most obvious example of how federalism is built into the U.S. Constitution. He said if four states changed who they sent as their Senators,

it would change the current make-up of the U.S. Senate. He opined that the U.S. Senate is less "fair," from a purely democratic view, than is "the Electoral College that we're talking about today." Nevertheless, he said he thinks Alaskans, more than any other state, understand the importance of the U.S. Senate, and he said he hopes [Alaskans] support HR 10.

MR. ENGLAND said individual disputes are contained within states, and he mentioned there was a significant dispute in some states in 1876. [Due to poor audio quality, much of this portion is indiscernible.] He offered further details regarding the 1867 election.

[9:33:21 AM](#)

MR. ENGLAND concluded that the Electoral College, while not always making everyone happy, is "a brilliant system that works differently but almost certainly better than the American founders thought it would." He said much of the reason for that is that it respects the uses of states as states and provides moderation and stability in the federal republic.

[9:34:21 AM](#)

JOHN SAMPLES, Ph.D., Director, Center for Representative Government, Cato Institute, ventured that state legislators would like to know whether their state would benefit under an NPV, and related that he answered that question in a 2008 policy analysis. He said the outcome of his analysis shows that in general, small states "lose power mathematically" under a system of direct voting, which is what the NPV is. He said that large states tend to do well under an NPV system.

DR. SAMPLES said the NPV is based on the idea that there will be more attention to Alaska; however, a leading study in The America Economic Review, based on data from 1948-2000, states that Alaska will lose about half its votes and get less attention from Presidential candidates if it moves from the Electoral College Vote to the NPV.

[9:37:12 AM](#)

LAURA BROD said she is a former legislator from Minnesota who is testifying on behalf of the NPV organization based in California. She opined that the legislature has been given a "false choice." She explained that it is not an either/or choice; the legislature does not have to choose whether to keep

the Electoral College or go to an NPV. She explained that the NPV currently before the U.S. Senate does not touch the Electoral College, she said. She said she agrees that the Electoral College is an important part of the foundation of the U.S, and she emphasized, "The National Popular Vote bill doesn't address that or touch it and run around it, repeal it, replace it, or any other thing. It doesn't mess with it one bit. If it did, ... I would not be here before ... the committee." She opined that how the country elects its President is big issue, which is why the NPV organization's complaint is not with the Electoral College, but with winner-take-all rules that are in 48 out of the 50 states and ignoring Alaska.

MS. BROD said previous testifiers have used simple math to warn that under the NPV Alaska would lose about half its influence. She said her response is: "zero times zero still equals zero." She said Presidential candidates focus all their attention on the battleground states; 35 states are ignored. She said that builds coalitions in certain states at the expense of others. She said it is not just about the money or attention, but about the issues, such as the Arctic National Wildlife Refuge (ANWR), base closures, land management, and oil and gas.

MS. BROD said an NPV would expand the coalitions in the country and expand the influence of Alaskans by "making candidates care about what ... the people you represent think."

[9:40:37 AM](#)

MS. BROD said Article 2, Section 1, of the U.S. Constitution, gave state legislatures the authority to "award your electors however you see fit in the best interest of the people that you represent." She relayed that she has spoken with many Alaskans, and she offered her understanding that they truly want their vote to matter, want candidates to talk about the issues they care about, and do not want the Presidential election decided by 4:00 p.m. on the day of the election. She said this issue has been studied in committees throughout the country and she urged further time be devoted to its discussion. In response to the chair, she said she would be happy to return for future discussions on the issue.

[9:41:31 AM](#)

REPRESENTATIVE KELLER expressed appreciation for Ms. Brod's testimony.

MS. BROD, in response to Representative Keller, explained that there are two entities promoting the NPV: one is incorporated in Florida and is called, "Support Popular Vote"; the other, which she represents, is incorporated in California.

REPRESENTATIVE KELLER said he takes exception to Ms. Brod's statement that the NPV would not affect the Electoral College. He said, "The effect of the National Popular Vote is to go from a popular vote that is determined state by state across the whole U.S. to a popular vote that is national. That changes the fundamental intent of the founders for the Electoral College."

[HR 10 was held over.]

[9:43:00 AM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:43 a.m.