

**ALASKA STATE LEGISLATURE**  
**SENATE STATE AFFAIRS STANDING COMMITTEE**

February 1, 2011

9:01 a.m.

**MEMBERS PRESENT**

Senator Bill Wielechowski, Chair  
Senator Joe Paskvan, Vice Chair  
Senator Albert Kookesh  
Senator Kevin Meyer  
Senator Cathy Giessel

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 39

"An Act ratifying an interstate compact to elect the President and Vice-President of the United States by national popular vote; and making related changes to statutes applicable to the selection by voters of electors for candidates for President and Vice-President of the United States and to the duties of those electors."

- HEARD AND HELD.

SENATE JOINT RESOLUTION NO. 4

Honoring President Reagan on the 100th anniversary of his birth.

- MOVED SJR 4 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SB 39

SHORT TITLE: U.S. PRESIDENTIAL ELECTION COMPACT

SPONSOR(s): SENATOR(s) FRENCH

01/19/11	(S)	PREFILE RELEASED 1/14/11
01/19/11	(S)	READ THE FIRST TIME - REFERRALS
01/19/11	(S)	STA, JUD, FIN
02/01/11	(S)	STA AT 9:00 AM BUTROVICH 205

BILL: SJR 4

SHORT TITLE: HONORING RONALD REAGAN

SPONSOR(s): SENATOR(s) HUGGINS

01/26/11 (S) READ THE FIRST TIME - REFERRALS  
01/26/11 (S) STA  
02/01/11 (S) STA AT 9:00 AM BUTROVICH 205

**WITNESS REGISTER**

SENATOR HOLLIS FRENCH  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Sponsor of SB 39.

ANDY MODEROW  
Staff to Senator Hollis French  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Explained provisions of SB 39.

LAURA BROAD  
National Popular Vote  
Minneapolis, MN

**POSITION STATEMENT:** Testified in support of SB 39 and explained provisions of the bill.

SEAN PATTERSON, representing himself  
Anchorage, AK

**POSITION STATEMENT:** Testified in support of SB 39.

DON THERING, representing himself  
Delta Junction, AK

**POSITION STATEMENT:** Testified in support of SB 39.

ALLISON GLOVER, representing herself  
Anchorage, AK

**POSITION STATEMENT:** Testified in support of SB 39.

CAROLYN BROWN, representing herself  
Juneau, AK

**POSITION STATEMENT:** Testified in support of SB 39.

JIM GILL, representing himself  
Fairbanks, AK

**POSITION STATEMENT:** Testified in support of SB 39.

MARJORIE MENZI, representing herself  
Juneau, AK

**POSITION STATEMENT:** Testified in support of SB 39.

JOHN MANLY

Staff to Senator Charlie Huggins  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Explained provisions of SJR 4 for the sponsor.

JERRY MCCUTCHEON, representing himself  
Anchorage, AK

**POSITION STATEMENT:** Testified in opposition to SJR 4.

#### **ACTION NARRATIVE**

[9:01:07 AM](#)

CHAIR BILL WIELECHOWSKI called the Senate State Affairs Standing Committee meeting to order at 9:01 a.m. Present at the call to order were Senators Paskvan, Kookesh, Meyer, Giessel and Chair Wielechowski.

#### **SB 39-U.S. PRESIDENTIAL ELECTION COMPACT**

CHAIR WIELECHOWSKI announced SB 39 to be the first order of business to come before the committee.

SENATOR HOLLIS FRENCH, sponsor of SB 39, explained that this bill was in the Senate last year, and it is designed to ensure a basic truth is upheld; the person who gets the most votes will become the president of the United States. He stated that the last decade has seen candidates being elected president without having the highest popular vote total. He further noted that, if SB 39 is enacted into law, Alaska would join with a group of states forming a compact to pledge its electoral votes to the candidate receiving the most popular votes.

[9:04:07 AM](#)

ANDY MODEROW, staff to Senator Hollis French, explained that SB 39 provides that any state of the United States and the District of Columbia can become a member of this agreement by enacting the agreement. He further explained that SB 39 sets out the right of the people in the member states to vote for president by statewide popular election. He said Article 3 allows that, before the meeting and voting by the presidential electors, each chief election official of each member state shall determine the number of votes for each presidential candidate, and the states

shall add the votes together to reach a national popular vote total.

9:06:16 AM

CHAIR WIELECHOWSKI asked about the issue of recounts between states.

SENATOR FRENCH said nothing in SB 39 affects the right of each state to count its own votes in its own manner. Ms. Fenumiai would still be the person in charge should Alaska agree to join this compact.

9:07:25 AM

MR. MODEROW further explained that SB 39 certifies the appointment of the elector slate for the candidate associated with that national popular vote winner. Six days before the meeting and voting by the presidential electors, the members shall make a final determination of the number of popular votes cast in the state and shall communicate that to other states for the purposes of the compact. The chief election official of each member state shall release a conclusive statement of the number of votes cast for each candidate. He also explained that if there is a tie for the national popular vote winner, the certifying official of each member state will certify the appointment of the electors nominated by the vote in the state.

9:08:43 AM

CHAIR WIELECHOWSKI asked if the chief election official referred to Ms. Gail Fenumiai.

SENATOR FRENCH responded yes, currently.

9:09:08 AM

MR. MODEROW then discussed what would occur if a member state sends a different number of electors than they have electoral votes; in that case, the national popular vote winner would nominate the presidential electors, and the state election official would certify the appointment of those nominees. He noted that the bill also creates a blackout period requiring that member states cannot withdraw from the compact for a period of time before and after the election.

SENATOR PASKVAN asked how many states have passed the compact.

MR. MODEROW responded that he thinks 20 states, but he is not certain.

[9:10:53 AM](#)

CHAIR WIELECHOWSKI asked if the chief executive of each member state refers to the governor.

MR. MODEROW responded yes. He further stated that definitions are provided on page 3, line 28, through page 4, line 21.

[9:11:44 AM](#)

MR. MODEROW explained that section 2 clarifies that current law will stay on the books until enough states have activated the compact.

[9:12:15 AM](#)

MR. MODEROW further explained that SB 39 contains provisions for how the compact will be enacted.

[9:12:52 AM](#)

LAURA BROAD, testifying on behalf of National Popular Vote, stated she spent eight years as a representative in the Minnesota state legislature, where she was a co-sponsor of the National Popular Vote Act. She said the National Popular Vote agreement would guarantee the presidency to the candidate who wins the most popular votes. The bill has been enacted in seven states, and has been enacted by jurisdictions possessing a total of 74 electoral votes, which is 27 percent of the votes necessary to trigger the compact. She said that the shortcomings of the current statutory system stem from the winner-take-all rule, which effectively awards a state's electoral votes to the candidate who wins the most popular votes in that state. The winner-take-all rule has permitted a candidate to win the presidency without winning the most popular votes in 1 of 56 presidential elections, which is 1 in 14 times. She further stated that Article II, Section I, of the United States Constitution gives states the exclusive authority and exclusive control over the manner of awarding electoral votes; thus, the winner-take-all rule is not in the U.S. Constitution, but is actually a matter of state law.

[9:17:34 AM](#)

MS. BROAD explained that Maine and Nebraska use a different system from the other states, which shows a state's right to award electors under its own rules. Under the national popular vote system, all electoral votes would be awarded to the candidate who wins the most popular votes. Two-hundred-seventy electoral votes are needed to ratify the compact. SB 39 also preserves the Electoral College, but in a way that makes sure that every vote is equal.

[9:19:29 AM](#)

MS. BROAD further stated that SB 39 would not abolish the Electoral College, nor would it render the Electoral College irrelevant; instead, it utilizes a state's right to benefit the people of Alaska and the people of all states. She noted the bill is not an end-run around the Constitution, because it very explicitly states in Article II, Section I that state legislatures have the full authority and the responsibility to award electors as they see fit.

MS. BROAD noted the founders originally intended that small states have an electoral advantage through an additional two electoral votes, but the winner-take-all system undermines the original intent. Candidates now become focused solely on battleground states, because influence is no longer derived from the number of electoral votes.

[9:21:23 AM](#)

MS. BROAD concluded by saying that SB 39 would ensure that people know their vote counts, would preserve the electoral college, fix shortcomings in the current system, and recognize and utilize an explicit states' right set forth by the founders in the constitution.

SENATOR PASKVAN asked if in a close election, a small state like Alaska could decide to give its three electoral votes in order to effectively change the results. What would be the penalty?

MS. BROAD responded that interstate compacts are authorized within the constitution to give sovereign states the authority to enter into legally binding contracts. She explained that states are not allowed to breach those contracts; states that enter into the compact can choose to leave, but only under provisions of the contract. She noted this is a legally enforceable tool, and that contracts actually take precedence over statutes.

[9:27:53 AM](#)

SENATOR MEYER asked how many states are currently in the compact.

MS. BROAD replied that seven states are currently in the compact, and those states possess a total of 27 percent of the electoral votes needed to trigger the compact. If Alaska passes this bill, nothing changes until the trigger of 220 electoral votes is reached.

SENATOR MEYER asked if Alaska would still be just a fly-over state, in terms of presidential campaigning.

MS. BROAD responded that Minnesota currently has a governor who didn't win any of the five largest cities in the state, yet he won the governor's race twice because he drove up the vote in rural and suburban areas. If this compact was adopted, presidential candidates would need to reach out to a broad swath of people in order to win.

[9:30:37 AM](#)

SENATOR GIESSEL noted that Minnesota is not one of the states that have ratified the agreement.

MS. BROAD responded that she is expecting it to be passed this year.

SENATOR GIESSEL asked if she would explain the blackout period.

MS. BROAD responded that purpose of the blackout period is to bind the states to the compact for the length of the election campaign, July 20th through January 20th, because voters should know the rules of engagement.

CHAIR WIELECHOWSKI asked how the national popular vote works in connection with the Electoral College.

[9:33:01 AM](#)

MS. BROAD responded that each state currently has the power to deal with electors in its own way. Under the current system, electors will always align with the candidate who wins the popular vote. If a democratic candidate wins the popular vote, a democratic slate of electors would go to the capitol and cast ballots. Under a national popular vote, that is no different; the slates are aligned with the candidate winning the majority of the popular vote.

CHAIR WIELECHOWSKI asked about the recount issue.

MS. BROAD replied that recounts would continue to operate under state statutes, and that does not change under the national popular vote.

[9:35:04 AM](#)

SEAN PATTERSON, representing himself, Anchorage, supported SB 39, and stated it is probably the first time he has agreed with

Senator French. He noted that our founding fathers understood that our democracy is a growing, living and changing entity; under the current system, many states don't count. Our republic has gotten to the point where each vote should be counted.

[9:38:55 AM](#)

DON THERING, representing himself, Delta Junction, stated he supports SB 39 because the Electoral College system needs to more accurately represent the country as it is today.

[9:39:54 AM](#)

ALLISON GLOVER, representing herself, Anchorage, said she believes passage of SB 39 would be good for Alaska.

[9:40:24 AM](#)

CAROLYN BROWN, representing herself, Juneau, stated she has lived in Alaska since 1965, including Anchorage, Palmer, and Juneau, and has worked throughout the state as a public health and OBGYN physician. Dr. Brown noted that six states and the District of Columbia have already passed the compact: Hawaii, Illinois, Maryland, New Jersey, New York, and the District of Columbia. She supports SB 39 because she is committed to participatory democracy, and she asked for reasoned consideration and thoughtful debate on this issue.

[9:43:24 AM](#)

JIM GILL, student, University of Alaska, Fairbanks, testified in support of SB 39.

[9:44:07 AM](#)

MARJORIE MENZI, Juneau, stated she was here as a citizen in support of SB 39. As a civics educator, social studies teacher, and voter registrar, she said she believes the president and vice-president should be determined by nationwide popular vote. She stated that according to a recent poll, 70 percent of Alaskans agree. She further stated that the current system is a disincentive to voters in Alaska.

[9:49:08 AM](#)

CHAIR WIELECHOWSKI closed public testimony and held SB 39 in committee for further consideration.

#### **SJR 4-HONORING RONALD REAGAN**

[9:49:46 AM](#)

CHAIR WIELECHOWSKI announced SJR 4 to be the next order of business.

SENATOR CHARLIE HUGGINS, sponsor of SJR 4, explained that the resolution should not require much evaluation, but it is important. SJR 4 recognizes the accomplishments of President Ronald Regan on the 100th anniversary of his birthday. He stated that President Regan had a profound impact on the state of Alaska, which many people don't recognize.

[9:51:30 AM](#)

JOHN MANLY, staff to Senator Charlie Huggins, gave a brief summary of SJR 4, which recognizes the accomplishments, leadership, and vision of Ronald Regan. Mr. Manly noted that, as listed in SJR 4, President Regan was involved in several Alaska-specific events, including advocating for very limited federal control of Alaska lands, state control of the Alaska railroad, meeting with Pope John Paul II in Fairbanks, signing reparations payments for Aleuts displaced in World War II, signing provisions of the small business development program, and funding village health clinics.

[9:54:38 AM](#)

JERRY MCCUTCHEON, Anchorage, said he opposes SJR 4, and feels it is a political resolution. He stated that Ronald Regan left the country trillions of dollars in debt, and there was even a question as to whether he was really in charge; as far as the Aleut reparations, they only received a fraction of what the Japanese received, and the Japanese internment camps were luxurious compared to the conditions endured by the Aleuts. Mr. McCutcheon disputed every positive point listed in the resolution.

[9:57:30 AM](#)

SENATOR HUGGINS replied that in general people should not speak ill of the dead; further, if you can't be positive, just be quiet. He noted that does not necessarily apply in this case, and while he appreciated Mr. McCutcheon's testimony, Ronald Regan does have a positive legacy in most people's minds.

[9:58:23 AM](#)

CHAIR WIELECHOWSKI closed public testimony.

SENATOR PASKVAN asked if any standard applies to recognizing presidential legacies; for instance, should the legislature recognize the 100th birthday anniversary of each president?

SENATOR HUGGINS responded it is fair to say the legislature does not have a system.

CHAIR WIELECHOWSKI stated that was a good question. It can be difficult to choose which president to honor.

SENATOR PASKVAN asked if SJR 4 accomplishes anything, such as naming a mountain after Ronald Regan, or is it just a piece of paper.

SENATOR HUGGINS responded that it is not just a piece of paper but a spirit, and it doesn't lead to any action.

[9:59:15 AM](#)

SENATOR MEYER moved to report SJR 4 from committee with individual recommendations and attached fiscal note(s).

CHAIR WIELECHOWSKI announced that without objection, SJR 4 moved from the Senate State Affairs Standing Committee.

[9:59:15 AM](#)

CHAIR WIELECHOWSKI adjourned the meeting of the Senate State Affairs standing committee at 9:59 a.m.