

SB

39

<TARGET><BILL>SB 39</BILL><SUBJECT>SB
39</SUBJECT><COMM>SSTA27</COMM></TARGET>

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 1/19/11

FURTHER: Judiciary
Finance

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2-10-11

State Affairs Committee considered SENATE BILL NO. 39

SB 39-U.S. PRESIDENTIAL ELECTION COMPACT

"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."

and recommends:

- be replaced with CS _____ (_____) Same Title New Title
- adopt previous CS _____ (_____) Same Title New Title
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

Dept Abbr.	
ADM	LEG
CED	LAW
COR	LWF
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Joe Paskvan</i>	PASKVAN	X			
<i>K. Meyer</i>	Meyer			X	
<i>Giessel</i>	Giessel			X	
CHAIR: <i>[Signature]</i>	Wielechowski			✓	

Senator Hollis French

Capitol Room 417
465-3892
465-6595 fax



MEMORANDUM

Date: 1/27/2011

To: Senator Bill Wielechowski
Senate State Affairs Committee

From: Senator Hollis French

ASF

RE: Hearing Request for SB 39 – U.S. Presidential Election Compact

This is a request that you schedule a hearing for SB 39 – U.S. Presidential Election Compact - at the earliest possible time. For the committee's use, I have attached a copy of the bill, a sponsor statement, a one page summary of the legislation, some news articles on the topic, Alaska specific poll data and a partial list of people who will be present to testify. No audio/visual equipment will be necessary for a bill hearing. A sectional analysis is forthcoming.

If you have any questions, please contact Andy Moderow in my office at 907-465-4923.



Senator Hollis French

Sponsor Statement

SB 39 – U.S. Presidential Election Compact

If there is one bedrock rule in elections it is this: the person with the most votes is the winner. This legislation would guarantee the Presidency to the candidate who receives the most votes in the United States.

The concept of ‘the person with the most votes wins’ is simple, but it hasn’t always worked out that way in our Presidential elections.

In 1876 Samuel Tilden received 254,000 more votes than Rutherford Hayes; however, Hayes won the Electoral College tally by one vote by having won a number of states by very small margins. In 1888 Grover Cleveland led in the popular vote over Benjamin Harrison, 48.6 percent to 47.8 percent, but Harrison won the Electoral College by a 233-168 margin, largely by virtue of his 1 percent win in Cleveland's home state of New York. In 2000 Al Gore won the popular vote by just over 500,000 votes but lost in the Electoral College to George Bush 266-271. In 2004 a shift of only 60,000 votes in Ohio from George Bush to John Kerry would have resulted in Kerry winning the Electoral College despite losing the popular vote by over 3 million votes.

SB 39 corrects this defect in our Presidential elections not by doing away with the Electoral College but by modifying how each state’s electoral votes are cast. Currently the state’s Electoral College votes are cast 100% in favor of the popular vote winner in the state. The bill would have Alaska join a compact made up of states that have pledged to cast their electoral votes in favor of the national popular vote winner. The compact would not go into effect until enough states have joined to put a majority of the Electoral College votes in the compact.

The choice of how to allocate our vote within the Electoral College was given to us by Article II, Section I of the US Constitution. The founding fathers of our country left the decision on how to select electors up to each individual state legislature. The US Supreme Court has written that “the appointment and mode of appointment of electors belong exclusively to the states under the constitution of the United States.” *McPherson v. Blacker*, 146 U.S. 1 at 29 (1892).

Many believe that the current system causes candidates to focus on swing states, and swing state issues, instead of approaching the country as a whole. It is beyond dispute that under the current system candidates spend their campaign funds on just a few states. Here's an example of how this plays out in Alaska. During the final 40 days of the 2008 election, 99% of all media expenditures were made in 17 states. Alaska, needless to say, was not one of them.

In a close presidential election that decides our country's future, all states should be swing states. Every vote should count, and should be sought by every candidate. This bill will promote truly national presidential campaigns, and it will ensure that the person sent to occupy the most powerful office in the world is the one who got the most votes in the election.

SENATE BILL NO. 39

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY SENATOR FRENCH

Introduced: 1/19/11

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

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

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 *** Section 1.** AS 15.30 is amended by adding new sections to read:

7 **Article 1A. Agreement Among the States to Elect the President by National Popular**
8 **Vote.**

9 **Sec. 15.30.095. Agreement Among the States to Elect the President by**
10 **National Popular Vote.** The Agreement Among the States to Elect the President by
11 National Popular Vote contained in this section is enacted into law and entered into on
12 behalf of the State of Alaska with other states joining in it in a form substantially as set
13 out in this section.

14 **ARTICLE I. MEMBERSHIP**

1 Any state of the United States and the District of Columbia may become a
2 member of this agreement by enacting this agreement.

3 ARTICLE II. RIGHT OF THE PEOPLE IN MEMBER STATES TO VOTE FOR
4 PRESIDENT AND VICE-PRESIDENT

5 Each member state shall conduct a statewide popular election for President and
6 Vice-President of the United States.

7 ARTICLE III. MANNER OF APPOINTING PRESIDENTIAL ELECTORS IN MEMBER
8 STATES

9 Before the time set by law for the meeting and voting by the presidential
10 electors, the chief election official of each member state shall determine the number of
11 votes for each presidential slate in each state of the United States and in the District of
12 Columbia in which votes have been cast in a statewide popular election and shall add
13 those votes together to produce a "national popular vote total" for each presidential
14 slate.

15 The chief election official of each member state shall designate the presidential
16 slate with the largest national popular vote total as the "national popular vote winner." *what if different*

17 The presidential elector certifying official of each member state shall certify
18 the appointment in that official's own state of the elector slate nominated in that state
19 in association with the national popular vote winner.

20 At least six days before the day fixed by law for the meeting and voting by the
21 presidential electors, each member state shall make a final determination of the
22 number of popular votes cast in the state for each presidential slate and shall
23 communicate an official statement of that determination within 24 hours to the chief
24 election official of each other member state.

25 The chief election official of each member state shall treat as conclusive an
26 official statement containing the number of popular votes in a state for each
27 presidential slate by the day established by federal law for making a state's final
28 determination conclusive as to the counting of electoral votes by Congress.

29 In event of a tie for the national popular vote winner, the presidential elector
30 certifying official of each member state shall certify the appointment of the elector
31 slate nominated in association with the presidential slate receiving the largest number

1 of popular votes within that official's own state.

2 If, for any reason, the number of presidential electors nominated in a member
3 state in association with the national popular vote winner is less than or greater than
4 that state's number of electoral votes, the presidential candidate on the presidential
5 slate that has been designated as the national popular vote winner shall have the power
6 to nominate the presidential electors for that state and that state's presidential elector
7 certifying official shall certify the appointment of such nominees.

8 The chief election official of each member state shall immediately release to
9 the public all vote counts or statements of votes as they are determined or obtained.

10 This article shall govern the appointment of presidential electors in each
11 member state in any year in which this agreement is, on July 20, in effect in states
12 cumulatively possessing a majority of the electoral votes.

13 ARTICLE IV. OTHER PROVISIONS

14 This agreement takes effect when states cumulatively possessing a majority of
15 the electoral votes have enacted this agreement in substantially the same form and the
16 enactments by those states have taken effect in each state.

17 Any member state may withdraw from this agreement, except that a
18 withdrawal occurring six months or less before the end of a President's term shall not
19 become effective until a President or Vice-President shall have been qualified to serve
20 the next term.

21 The chief executive of each member state shall promptly notify the chief
22 executive of all other states of when this agreement has been enacted and has taken
23 effect in that official's state, when the state has withdrawn from this agreement, and
24 when this agreement takes effect generally.

25 This agreement shall terminate if the electoral college is abolished.

26 If any provision of this agreement is held invalid, the remaining provisions
27 shall not be affected.

28 ARTICLE V. DEFINITIONS

29 (A) "Chief election official" means the state official or body
30 authorized to certify the total number of popular votes for each presidential
31 slate.

25/07 2020

1 (B) "Chief executive" means the Governor of a State of the
2 United States or the Mayor of the District of Columbia.

3 (C) "Elector slate" means a slate of candidates who have been
4 nominated in a state for the position of presidential elector in association with a
5 presidential slate.

6 (D) "Presidential elector" means an elector for President and
7 Vice-President of the United States.

8 (E) "Presidential elector certifying official" means the state
9 official or body that is authorized to certify the appointment of the state's
10 presidential electors.

11 (F) "Presidential slate" means a slate of two persons, the first of
12 whom has been nominated as a candidate for President of the United States and
13 the second of whom has been nominated as a candidate for Vice-President of
14 the United States, or any legal successors to those persons, regardless of
15 whether both names appear on the ballot presented to the voters in a particular
16 state.

17 (G) "State" means a state of the United States and the District
18 of Columbia.

19 (H) "Statewide popular election" means a general election in
20 which votes are cast for presidential slates by individual voters and counted on
21 a statewide basis.

22 **Sec. 15.30.098. Implementation of agreement.** In AS 15.30.095, "chief
23 election officer" means the director of the division or other person appointed under
24 this title to serve as the chief election official of the state.

25 * **Sec. 2.** AS 15.30.060 is amended to read:

26 **Sec. 15.30.060. Notification of electors.** Except as provided in (b) of this
27 section, when [WHEN] the results of the election of presidential electors have been
28 determined, the director shall send a certificate of election to each elector and shall
29 notify the electors of the time and place of their meeting and of their duties as electors.

30 * **Sec. 3.** AS 15.30.060 is amended by adding a new subsection to read:

31 (b) Whenever the provisions of art. III of the Agreement Among the States to

1 Elect the President by National Popular Vote as set out in AS 15.30.095 relating to
 2 certification of the appointment of the elector slate nominated in that state in
 3 association with the national popular vote winner of a presidential election apply to
 4 determine the election of presidential electors, this subsection applies and the
 5 provisions of (a) of this section do not apply. If this subsection applies,
 6 notwithstanding AS 15.15.450, mandating that the director provide a certificate of
 7 election to the candidate receiving the largest number of votes, the director shall send
 8 a certificate of election to each elector determined under AS 15.30.095 and shall notify
 9 the electors of the time and place of their meeting and their duties as electors.

10 * **Sec. 4.** AS 15.30.090 is amended to read:

11 **Sec. 15.30.090. Duties of electors.** Except as provided in (b) of this section,
 12 after [AFTER] any vacancies have been filled, the electors shall proceed to cast their
 13 votes for the candidates for the offices [OFFICE] of President and Vice-President of
 14 the party that selected them as candidates for electors, or for the candidates for the
 15 offices [OFFICE] of President and Vice-President under AS 15.30.026 if the electors
 16 were named under AS 15.30.026, and shall perform the duties of electors as required
 17 by the constitution and laws of the United States. The director shall provide
 18 administrative services and the Department of Law shall provide legal services
 19 necessary for the electors to perform their duties.

20 * **Sec. 5.** AS 15.30.090 is amended by adding a new subsection to read:

21 (b) Whenever the provisions of art. III of the Agreement Among the States to
 22 Elect the President by National Popular Vote as set out in AS 15.30.095 relating to
 23 certification of the appointment of the elector slate nominated in that state in
 24 association with the national popular vote winner of a presidential election apply and
 25 determine the election of presidential electors, this subsection applies and the
 26 provisions of (a) of this section do not apply. If this subsection applies, after any
 27 vacancies have been filled, the electors shall proceed to cast their votes for the
 28 candidates for the offices of President and Vice-President of the party as provided in
 29 AS 15.30.095, and shall perform the duties of electors as required by the constitution
 30 and laws of the United States. The director shall provide administrative services and
 31 the Department of Law shall provide legal services necessary for the electors to

1 perform their duties.

National Popular Election of the President
National Popular Vote!

www.NationalPopularVote.com

March 9, 2010

“Agreement Among the States to Elect the President by National Popular Vote”

The National Popular Vote bill would guarantee the Presidency to the candidate who receives the most popular votes in all 50 states (and the District of Columbia).

The bill has passed 29 legislative chambers in 19 states (AR, CA, CO, CT, DE, HI, IL, ME, MD, MA, MI, NV, NJ, NM, NC, OR, RI, VT, WA) and been endorsed by 1,825 state legislators.

The bill has been enacted by state legislatures representing 61 electoral votes — 23% of the 270 necessary to activate the law (Hawaii, Illinois, Maryland, New Jersey, and Washington).

The shortcomings of the current system stem from the winner-take-all rule (i.e., awarding all of a state’s electoral votes to the candidate who receives the most popular votes in each state).

Because of the winner-take-all rule, a candidate can win the Presidency without winning the most popular votes nationwide. This has occurred in 4 of the nation’s 56 presidential elections (and 1 in 7 of the non-landslide elections). A shift of fewer than 60,000 votes in Ohio in 2004 would have defeated President Bush despite his nationwide lead of 3,500,000 votes.

Another shortcoming of the winner-take-all rule is that presidential candidates have no reason to poll, visit, advertise, or organize in states where they are comfortably ahead or hopelessly behind. In 2008, candidates concentrated over two-thirds of their campaign visits and ad money in just six closely divided “battleground” states. A total of 98% went to just 15 states. In other words, voters in two thirds of the states were essentially spectators to the election.

The U.S. Constitution gives the states exclusive and plenary control over the manner of awarding their electoral votes. The winner-take-all rule is not in the Constitution. It was not the Founder’s choice and was used by only 3 states in the nation’s first presidential election in 1789. Maine and Nebraska currently award electoral votes by congressional district — a reminder that an amendment to the U.S. Constitution is not required to change the way the President is elected.

Under the National Popular Vote bill, all the electoral votes from the enacting states would be awarded, as a bloc, to the presidential candidate who receives the most popular votes in all 50 states (and DC). The bill would take effect only when enacted by states possessing a majority of the electoral votes — that is, enough electoral votes to elect a President (270 of 538). The bill would replace the current state-by-state system of awarding electoral votes with a system based on winning the most individual votes in all 50 states (and DC).

The bill has been endorsed by the *New York Times*, *Chicago Sun-Times*, *Minneapolis Star-Tribune*, *Los Angeles Times*, *Boston Globe*, *Sacramento Bee*, Common Cause, and Fair Vote.

State polls show strong support for a national popular vote (AK–70%, AR–80%, CA–70%, CO–68%, CT–74%, DC–76%, DE–75%, ID–77%, IA–75%, KY–80%, ME–77%, MA–73%, MI–73%, MS–77%, MO–70%, NH–69%, NE–74%, NV–72%, NM–76%, NY–79%, NC–74%, OH–70%, OK–81%, PA–78%, RI–74%, SD–75%, UT–70%, VT–75%, VA–74%, WA–77%, WI–71%, and WV–81%). Support is strong in every partisan and demographic group.

The National Advisory Board of National Popular Vote includes former congressmen John Anderson (R–Illinois and later independent presidential candidate), John Buchanan (R–Alabama), Tom Campbell (R–California), and Tom Downey (D–New York) and former Senators Birch Bayh (D–Indiana), David Durenberger (R–Minnesota), and Jake Garn (R–Utah).

Additional information is available in our book *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* and at www.NationalPopularVote.com.

In summary, the National Popular Vote bill will guarantee that every voter in every state will be politically relevant in every presidential election and that every vote will be equal.

The New York Times

Drop Out of the College

New York Times Editorial

March 14, 2006

The Electoral College is an antidemocratic relic. Everyone who remembers 2000 knows that it can lead to the election of the candidate who loses the popular vote as president. But the Electoral College's other serious flaws are perhaps even more debilitating for a democracy. It focuses presidential elections on just a handful of battleground states, and pushes the rest of the nation's voters to the sidelines.

There is an innovative new proposal for states to take the lead in undoing the Electoral College. Legislatures across the country should get behind it.

Both parties should have reason to fear the college's perverse effects. In 2000, the Democrats lost out. But in 2004, a shift of 60,000 votes in Ohio would have elected John Kerry, even though he lost the national popular vote decisively.

Just as serious is the way the Electoral College distorts presidential campaigns. Candidates have no incentive to campaign in, or address the concerns of, states that reliably vote for a particular party. In recent years, the battleground in presidential elections has shrunk drastically. In 1960, 24 states, with 327 electoral votes, were battleground states, according to estimates by National Popular Vote, the bipartisan coalition making the new proposal. In 2004, only 13 states, with 159 electoral votes, were. As a result, campaigns and national priorities are stacked in favor of a few strategic states. Ethanol fuel, a pet issue of Iowa farmers, is discussed a lot. But issues of equal concern to states like Alabama, California, New York and Indiana are not.

The Electoral College discourages turnout because voters in two-thirds of the nation know well before Election Day who will win their states. It also discriminates among voters by weighing presidential votes unequally. A Wyoming voter has about four times as much impact on selecting that state's electors as a California voter does on selecting that state's.

The answer to all of these problems is direct election of the president. Past attempts to abolish the Electoral College by amending the Constitution have run into difficulty. But National Popular Vote, which includes several former members of Congress, is offering an ingenious solution that would not require a constitutional amendment. It proposes that states commit to casting their electoral votes for the winner of the national popular vote. These promises would become binding only when states representing a majority of the Electoral College signed on. Then any candidate who won the popular vote would be sure to win the White House.

The coalition is starting out by trying to have laws passed in Illinois and a few other states. Americans are rightly cautious about tinkering with mechanisms established by the Constitution. But throughout the nation's history, there have been a series of reforms affecting how elections are conducted, like the ones that gave blacks and women the vote and provided for the direct election of United States senators. Sidestepping the Electoral College would be in this worthy tradition of making American democracy more democratic.

The Fayetteville Observer

Our View: Electoral vote change would be good for the state and its people

The Fayette Observer Editorial

May 16, 2007

Four times since the framers met in Philadelphia in 1787, the presidency has gone to the candidate on the losing end of the popular vote. The republic still stands.

That's hardly a compelling argument for leaving things as they are. The Electoral College less than perfectly reflects the will of the people, and the threat of the "faithless elector" who tips an election the way his partisan bias dictates is real, if remote. Both threats would vanish if the election automatically went to the candidate for whom most registered voters pulled the lever.

This is the point at which the conversation normally would turn to amending the federal Constitution to abolish the Electoral College. But the state Senate has just passed a bill that would achieve a comparable effect by simple statute.

The bill provides that, if enough states join in to command a majority in the Electoral College, all of North Carolina's electoral votes will be awarded to the winner of the popular vote — not the statewide winner, but the one who wins nationwide. More than 40 states are already looking at substantially the same bill.

If it works as planned, the problem goes away, with no violence done to the Constitution.

Something else happens, too. North Carolina will less often find itself in political obscurity when the nation chooses its top leader.

During the 2000 election, one analyst noted that the candidates were focusing most of their time and effort on 11 swing states. Ironically, only three of those had more electoral votes than North Carolina, which was not one of the 11. If candidates understand that they have a real shot at our 15 electoral votes right up until the polls close on that fateful Tuesday in November, we are unlikely to be shrugged off or taken for granted again.

The arguments against it are no stronger than those for retaining the Electoral College in all its supreme majesty: (1) it's different; and (2) it means that North Carolina could end up giving its 15 votes to someone not favored by the majority of Tar Heel voters. The first argument lacks heft. The second would make perfect sense, but only if one could ignore the fact that presidential elections are held to enable individual Americans to put someone in the White House, not merely to express each state's collective pique or pleasure.

This is worth a try — for the sake of simplicity and fairness, and in the interest of raising our state's political profile.



Alaska Survey Results

Q1 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? If you think it should be the candidate who gets the most votes in all 50 states, press 1. If you think it should be the current electoral college system, press 2.

<i>Candidate who gets the most votes in all 50 states</i>	<i>Current electoral college system</i>	30%
		70%

Q2 If you are a woman, press 1, if a man, press 2.

<i>Women</i>	<i>Men</i>	46%
		54%

Q3 If you are a Democrat, press 1. If a Republican, press 2. If nonpartisan, press 3. If Alaskan Independent Party, press 4. If Republican Moderate Party, press 5. If Green Party, press 6. If other, press 7.

<i>Democrat</i>	18%
<i>Republican</i>	33%
<i>Nonpartisan</i>	44%
<i>Alaskan Independent Party</i>	1%
<i>Other</i>	4%

Q4 If you are white, press 1. If black, press 2. If Alaska native, press 3. If Asian, press 4. If other, press 5.

<i>White</i>	80%	<i>Asian</i>	1%
<i>Black</i>	4%	<i>Other</i>	10%
<i>Alaska Native</i>	5%		

Q5 If you are 18 to 29 years old, press 1 now. If you are 30 to 45, press 2. If you are 46 to 65, press 3. If older than 65, press 4.

<i>18-29</i>	9%	<i>46-65</i>	41%
<i>30-45</i>	34%	<i>Older than 65</i>	15%

Q6 Are you or is someone in your household a member of a labor union? If yes, press 1. If no, press 2.

<i>Yes</i>	28%
<i>No</i>	72%



Senator Hollis French

Capitol Room 417
465-3892
465-6595 fax



MEMORANDUM

Date: 1/27/2011

To: Senator Bill Wielechowski
Senate State Affairs Committee

From: Senator Hollis French

RE: Partial List of Witnesses – SB 39 – US Presidential Election Compact

For a bill hearing on Senate Bill 39, the following individuals have expressed an interest in testifying:

- Laura Brod- former State Representative from Minnesota
- Derrick Kitts- former State Representative from Oregon
- Dr. John Koza - author of "Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote"

I will contact your office if additional witnesses approach our office and wish to testify.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 27, 2011

SUBJECT: Sectional summary of SB 39 (Work Order No. 27-LS0372/A)

TO: Senator Hollis French
Attn: Andy Moderow

FROM: Alpheus Bullard 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Ratifies an interstate compact to elect the President and Vice-President of the United States by national popular vote. Under the compact (and the bill), the presidential candidate who receives the most popular votes in all 50 states and the District of Columbia will win the presidency. Under the compact, all of the state's electoral votes would be awarded to the presidential candidate who receives the most popular votes in all 50 states and the District of Columbia. This compact would take effect only when enacted by states possessing a majority of the electoral votes, that is, enough electoral votes to elect a President, which is 270 of 538 electoral votes.

Sections 2 - 5. Conform statutes to the changes made by section one of the bill.

TLAB:ljw
11-051.ljw

FISCAL NOTE

STATE OF ALASKA
2011 LEGISLATIVE SESSION

Fiscal Note Number _____
Bill Version SB39
() Publish Date _____

Identifier (file name) SB039OOG-DOE-1-29-11
Title "An Act ratifying an interstate compact to elect the President and Vice President of the United States by national popular." Dept. Affected OOG
Appropriation Elections
Allocation Elections
Sponsor Senator French
Requester Senate State Affairs Committee OMB Component Number 21

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2012	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
-----------------------------	--	--	--	--	--	--	--	--

CHANGE IN REVENUES								
---------------------------	--	--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other (please identify)								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2011) cost _____

POSITIONS

Full-time								
Part-time								
Temporary								

Why this fiscal note differs from previous version (if initial version, please note as such)

Prepared by Gail Fenumiai, Director
Division Division of Elections
Approved by Linda Perez, Administrative Director
Office of the Governor

Phone 465-2644
Date/Time 1/29/2011, 4:41pm
Date 1/29/2011

FISCAL NOTE

STATE OF ALASKA
2011 LEGISLATIVE SESSION

BILL NO. SB39 _____

Analysis

This legislation has no fiscal impact for the Division of Elections.

**THE STATE OF ALASKA
SENATE STATE AFFAIRS COMMITTEE**

*SB 39: An Act ratifying an interstate compact to elect the
President and Vice-President of the United States by national popular vote*
February 2011

Submitted By: Tara Ross
Author of *Enlightened Democracy: The Case for the Electoral College*

Overview

I urge you to vote against SB 39. It would create many new, logistical problems for our presidential election process. It would also essentially eliminate the Electoral College, an institution that protects less densely populated states such as Alaska and is critical to the success of our republican democracy.

Problems Created by SB 39. The National Popular Vote plan proposed by SB 39 contains many hidden problems. NPV awards the presidency to the winner of any plurality—even a very small one. Alaska could be required to cast its electoral votes for a candidate who did not qualify for the ballot in Alaska. Recounts would be controlled by 51 different standards (50 states plus D.C.), rather than one national standard. Chaos, litigation, and confusion would result. Some voters would be disenfranchised because their votes would be counted in different ways, depending on their state of residence.

Applying the Electoral College Today. The Electoral College provides many benefits that still serve Americans:

- **The Benefits of Federalism.** Presidential candidates must build national coalitions of voters. Historically speaking, the candidate who builds the broadest coalition will win. Thus, presidents are good representatives for all Americans; they do not merely represent one region, state, or special interest group.
- **Moderation and Compromise.** The Electoral College encourages Americans to work together, across state lines. A direct election system, by contrast, would result in multi-party presidential races, a fractured electorate, increasingly extremist third-party candidates, and constant recounts.
- **Stability and Certainty in Elections.** The Electoral College typically produces quick and undisputed outcomes. Any problems are isolated to one or a handful of states. Fraud is minimized because it is hard to predict where stolen votes will matter.

Conclusion. We must not allow the Electoral College to be eliminated through legislation such as SB 39. This important aspect of our Constitution continues to protect our freedom, just as it did when it was created in 1787.

THE SENATE OF THE STATE OF ALASKA
COMMITTEE ON GOVERNMENT OPERATIONS

*SB 39: An Act Relating to the Agreement Among the
States to Elect the President by National Popular Vote*
February 2011

Submitted By: Tara Ross
Author of *Enlightened Democracy: The Case for the Electoral College*

Full Testimony

The bill before you, SB 39, represents the latest attempt to eliminate America's unique and successful presidential system. Abolishing the Electoral College would be unhealthy for the country and especially detrimental to less densely populated states such as Alaska. But eliminating the Electoral College through this roundabout manner, without going through a formal constitutional amendment process, carries its own special dangers.

Proponents claim the National Popular Vote plan outlined in SB 39 will ensure that all voters receive equal attention because each vote will be weighted equally. But the truth is the precise opposite. NPV will lessen the need of presidential candidates to obtain the support of voters in rural areas and in states such as Alaska.

Problems Created by NPV

The plan proposed by NPV is fraught with difficulties—some logistical, some philosophical. I will discuss these latter issues—arguments “for” and “against” the Electoral College—in a moment. But the logistical difficulties of changing the presidential election process without a constitutional amendment need to be fully explored.

The current presidential election process blends federalist and democratic principles. America holds 51 completely separate, purely democratic elections each presidential election year (one in each state, plus D.C.). Local election laws impact the manner in which each of these elections is held, but any differences among states' election codes don't matter. The unique laws of any particular state impact only voters within that state. The country holds 51 completely separate elections, and it achieves 51 different sets of results. Each state's single goal is to select a slate of electors that will represent it in the later, national election among the states. NPV would change this. America would still hold 51 separate elections, but NPV would attempt to derive one single result from these 51 elections. Suddenly, internal variances among states' processes—previously irrelevant—would matter a great deal. Seeking change through a constitutional amendment would avoid these problems. An amendment would help establish one set of national laws to govern one national election. Instead, consider just a few of the logistical problems that could occur with NPV in place:

First, note that NPV can't force states that have rejected NPV to participate in a run-off. Thus, it gives the presidency to the candidate winning *any* plurality, even a very small one. **NPV is not looking for a majority winner. It is not even looking for a minimum plurality.** As a practical and logistical matter, it can't. Thus, a candidate could win with only 15 or 20 percent of votes nationwide. But it gets worse. Under this scheme, Alaska could be forced to award its entire slate of electors to a candidate who was not on its own ballot. Imagine, for instance, that Ron Paul qualifies for the ballot in Texas and obtains a winning plurality solely from Texas voters. Paul did not bother to qualify for the ballot in a place like Alaska. Voters in that state did not have the chance to vote for—or against—him. Yet Alaska would *still* be forced to award its entire slate of electors to the choice of Texas voters. Alaska probably did not nominate a slate of electors for Paul because he was not on its ballot. NPV's compact offers a solution, but it is doubtful that voters in Alaska will like it. Paul would be entitled to personally appoint the three electors who will represent Alaska in the Electoral College vote. In all likelihood, he would select Texans to represent Alaska in the presidential election so that he would not be undermined by a "faithless" elector who was determined to vote for the choice of Alaska's voters.

There are other inconsistencies among states' ballots that would skew the election results. Some states allow felons to vote. Some states do not. States differ in their requirements for ballot qualification. Inevitably, Alaska would have to abide by national election results derived from policies with which it disagrees.

I wish I were done, but I am not. It gets even worse. States have different criteria for what does (or does not) trigger recounts within their borders. These differences could cause a whole host of problems. What if the national total is close—close enough to warrant a recount—but a recount can't be conducted because the margins in individual states were not close? Or perhaps recounts are conducted, but only in two or three states, each with a different idea of how to count a hanging chad. Perhaps a fourth state would see what is going on and choose to conduct a recount that its statutes previously deemed optional. Maybe this fourth state has a different definition of "hanging chad," and its sole goal is to counteract the efforts of the other states.

Such a state of affairs invites chaos, litigation, and confusion each and every election year. Some voters will be disenfranchised by the widely differing ideas of how to count a vote. What if such problems caused one state to pull out of the compact in violation of its terms? How would compliance be enforced? How much litigation would ensue before the presidential election could be resolved?

Formally eliminating the Electoral College through a constitutional amendment would be unhealthy for the country. But NPV's efforts to skirt the constitutional amendment process altogether would create added difficulties. These logistical nightmares could haunt the country each and every presidential election year.

The Benefits of the Electoral College

I do not mean to imply that the only problem with NPV is its logistical difficulties. Eliminating the Electoral College would do serious harm to a country as diverse as our own. The system provides our country with many great benefits that tend to remain unnoticed and thus unappreciated by most Americans.

The history of the Electoral College must be understood if its benefits are to be appreciated. The Founders sought to reconcile two seemingly irreconcilable goals: They wanted the people to govern themselves, but they also wanted to protect minority interests. A pure democracy would not accomplish this objective because it allows 51 percent of the people to rule the other 49 percent—all the time, without exception. If America were a pure democracy, imagine what could happen in the wake of an event like 9/11. A bare majority could enact any law it desired, even if that law were tyrannical, racist, or penalized some for their religious beliefs. The Founders thus did not create a pure democracy. Instead, their Constitution tempers its democratic aspects with republican and federalist characteristics. Safeguards such as the Senate (one state, one vote representation), supermajority requirements to amend the Constitution, and the Electoral College allow the majority to rule, but only while it acts reasonably. Minority political interests are protected.

The Electoral College provides three benefits that still protect Americans today.

The Benefits of Federalism

Electoral College opponents argue that presidential elections are undemocratic. They are wrong. America holds 51 purely democratic elections each presidential election year (each state, plus D.C.). Such a process combines democracy and federalism into one process. The result is that candidates can't win without nationwide support. Obama can't rely solely on big cities in California. Republicans can't rely solely on Texas. They must win simultaneous, concurrent majorities nationwide. They can't achieve those victories unless they reach out to a wide variety of voters. They will fail if they rely upon isolated pockets of support in one region or among voters in one special interest group.

Many dispute that our system creates national coalition-building, arguing that it instead causes a disproportionate focus on mid-sized "swing" states. These arguments appear true if we focus on one or a handful of election years in isolation. But if we look at the states' full histories of voting, we see that the identity of "swing" and "safe" states changes all the time. California is often viewed as irreversibly Democrat, but it voted for Republican candidate George H.W. Bush as recently as 1988. Texas used to be as undeniably Democrat as it is Republican today. States such as Georgia, Kentucky, and Louisiana all voted for Bill Clinton in the 1990s, but they were considered very safe Republican states in 2008.

Ultimately, the Electoral College ensures that the political parties must reach out to all the states. As a matter of history, no political party has ever been able to ignore any state for too long without feeling the ramifications at the polls.

Moderation and Compromise

The most likely consequence of a change to a direct popular vote is the breakdown of the two-party system. Today, third-party candidates do not receive much support. In a direct popular election, everything changes. A vote for Ross Perot or Ralph Nader is no longer “wasted,” and the number of presidential candidates would increase. Voters would fracture their votes across many candidates. The result will be lower vote totals per candidate and an increased likelihood that two or more candidates will have close popular vote totals. Recounts would proliferate. Worse, extremist candidates could more easily sway an election, because no candidate is required to obtain majority support.

NPV proponents argue that the President should have the support of most Americans. But in real life, “most” Americans will never agree on their ideal candidate. Individuals’ opinions differ too greatly. Given the general inability to obtain majority consensus (or even the consensus of a large plurality), the Electoral College provides the country with the next best alternative. Electing Presidents by states’ electoral votes, rather than individuals’ votes, creates a method of electing a President who is a good compromise candidate for most Americans, as represented by their states. The Electoral College requires moderation, compromise, and coalition-building from any candidate before he can be successful.

Stability and Certainty in Elections.

The Electoral College encourages stability and certainty in our political system. Events such as those that occurred in 2000 are rare. The Electoral College typically produces quick and undisputed election outcomes for two reasons: First, the system (along with the winner-take-all rule) tends to magnify the margin of victory, giving the victor a certain and demonstrable election outcome. Such certainty can’t be provided by a direct popular election. Popular votes are often close, and these close votes can result in constant litigation and recounts. Second, the system controls the impact of fraud and error. In part, this is because it is difficult to predict where stolen votes will make a difference to the national outcome. But if one person can identify a problematic state (think Ohio in 2004), then, in all likelihood, everyone knows and that area is closely watched. It becomes harder to steal votes. To the degree that fraud and errors do occur, the Electoral College makes it possible to isolate the problem to one or a handful of states. The country is given a clear set of problems to resolve one way or another before moving on to a definitive election outcome.

Conclusion

The Electoral College is an important safeguard in our constitutional system of checks and balances, and it is critical to the success of our nation’s republican democracy. I urge you to protect the Electoral College by voting “no” on SB 39.



3100 Channel Drive, Suite 300 • Juneau AK 99801 • (907) 463-3488 • Fax (907) 463-3489
E-mail: iuneauchamber@eci.net • icc@alaska.com • Web site: <http://www.iuneauchamber.com>

Board Members

Tim McLeod, *President*
AEL&P
Bob Martin, *Past Pres.*
Goldbelt
Sheldon Winters, *Pres. Elect*
Lessmeier & Winters
Chuck Collins
Key Bank
Neil MacKinnon, *Treasurer*
Alaska Laundry
Sharon Burns, *Secretary*
ABC Stations
Jeremy Hansen
Hansen Gress
Dick Knapp
Petra Marine
Max Mertz
Elgee Rehfeld Mertz
Lance Stevens
Alaska USA FCU
Nathan McCowan
Sealaska
Karen Hansen
Wings of Alaska
Murray Walsh
Walsh Consulting
Kelly Shattuck
Shattuck & Grummett
Wade Bryson
Subway of Juneau

Benefactor Members

ACS
Allen Marine
Exxon Mobil
Juneau Empire
GCI Communications
Juneau Radio Center
Sealaska

Platinum Members

AEL&P
Alaska Litho
Alaska Marine Lines
Alaska Pacific Bank
Alaska USA FCU
Alaskan Brewing Company
Bartlett Regional Hospital
BP Alaska
CBJ (Manager's Office)
Capital Office Supply
Coeur Alaska, Inc.
Coogan Construction
Copy Express
Elgee Rehfeld & Mertz
Exxon Mobil
First National Bank of Alaska
Hecla Greens Creek Mining
Goldbelt, Inc.
Huna Totem
Shattuck & Grummett
Taku Oil
True North FCU
UAS
Wells Fargo Bank of Alaska
Westmann and Associates

February 8, 2011

Alaska State Legislature
Senator Gary Stevens
State Capitol Room 111
Juneau AK, 99801

RE:SB18

Dear Senator Stevens,

It is my pleasure to tell you what a great job your aide Tim Lamkin did last week at chamber lunch presenting information on SB18 extending the second session of the Legislature back to 120 days.

I have represented the Juneau Chamber of Commerce as well as served on the Marine Transportation Advisory Board for the past 6 years. I have had the honor of visiting many legislators during this time regarding issues important to my community as well as all other communities served by the Alaska Marine Highway.


Before the legislative sessions were shortened to 90 days I could call on not only my delegation but legislators from around the state and felt confident that they would have time to hear what I had to say.

Since the change from 120 to 90 days I seldom go directly to any of my legislators during session. If I do I must be prepared to chase them down the hall or if I get lucky I might get 5 minutes of their time. Legislators and their staff seem to be racing from one meeting to the next. I can only imagine how difficult this must be for folks traveling to Juneau to see their legislators especially when I know legislators want to spend time with their constituents.

In conclusion, we whole heartedly support SB18 and hope that at least one year of each session is extended to 120 days. The ideal would be to revert back to 120 days every year.

Thank you so much for your service to the State of Alaska.

Respectfully,



Cathie Roemmich, CEO
Juneau Chamber of Commerce