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## **SUBVERTING THE ELECTORAL PROCESS: National Popular Vote Interstate Compact**

By Steve Bakke  April 9, 2019



Are most Democrat politicians trying to destroy the Electoral College? It's all the rage among the Democrat presidential wannabes – almost a required litmus test for candidacy. The Framers had good reasons to devise this system: it's a linchpin in our “representative republic” government which prevents “mob rule” and protects the rights of all citizens, not just the majority; it's an “extra set of eyes” on the presidential election process; and it gives assurance that a handful of states won't select our President. I look at this as 51 (including D.C.) separate popular vote elections, the results of each indicate for which candidate the state will cast its electoral votes. It encourages coalitions and national campaigning.

Those are important topics, but my goal here is to increase the visibility of initiatives intended to subvert the electoral process without amending our U.S. Constitution. The most prominent one is the National Popular Vote Interstate Compact (NPVIC). This initiative intends to guarantee the candidate winning the national popular vote is elected. To achieve success, NPVIC must get states to enact legislation whereby states pledge all their electors to the national popular vote winner.

There are 538 electors so they must have the compact/agreement signed by states representing 270 electors. Only 14 states have agreed so far, but they already have 189 electors committed. If they tried to eliminate the Electoral College by Constitutional Amendment, it would require three-fourths of the states, or 38. So NPVIC seems much easier.

What if the plateau of 270 electors is reached? Are there any defensive measures to be taken? Here's what Article 1 of our Constitution provides: “No state shall, without the consent of Congress.....enter into any agreement or compact with another state or with a foreign power.....” That seems clear that they can't do anything like NPVIC without the consent of Congress, but there's significant disagreement about that among legal scholars. There's sure to be a bitter and divisive Constitutional challenge if the 270-electoral threshold is achieved.

And there's a new challenge developing. Imagine a situation in which an important “swing state” decides to “go it alone” for pledging their electoral votes to the national popular vote

winner. This could be the case if there is sentiment among enough voters to join the “compact,” but they can’t depend on achieving that through successful legislation. Such is the case in Ohio. Opponents of the electoral process stand a good chance of having a voter initiative on the ballot in November which would amend the Ohio constitution to pledge Ohio electors to the national popular vote winner.

This Ohio initiative is distinct from NPVIC, and might be successful. And considering the broad latitude states have in allocating electors, it may be Constitutional. Toss in similar success in a few more “swing states” and the complexion of our presidential election process is changed forever. The Electoral College would be destroyed. Is this a bigger threat than NPVIC?

Discuss the Electoral College with your friends on the “left,” and ask them questions like: Do you reject the institution of the U.S. Senate since it does not proportionately represent the population? Since the Senate structure was set up to promote parity between the states rather than proportionate representation, do you minimize this original purpose of parity? Does your disdain for the Electoral College reflect your broader feelings about the representative form of government gifted us by our Founders? And, dear progressive friend, reflect back on 2004. George W. Bush received the most popular votes. Under NPVIC, California would have had to cast all their electoral votes for Bush, even though he lost the state to Kerry by a huge margin. Imagine the outrage that would have come from California Democrats.

That’s where we stand with these attacks on the electoral process. I’ve concluded destruction of the Electoral College is less than likely, but is seriously plausible. The Democrats’ goal isn’t about improving our election procedures or governance. It’s all about Democrats improving their chance of winning. Whatever the outcome of these attacks on our form of government, the finish-line is probably a long way off. Yet it feels like it’s right in front of us, looming dangerously. We must work against it.