



**Testimony of
Miles Rapoport
President of DEMOS**

**Before the
Government Administration and Elections Committee
of the Connecticut General Assembly
Regarding**

H.B. 5126, AAC An Agreement Among the States to Election the President of the United States by National Popular Vote

February 24th, 2014

Introduction.

My name is Miles Rapoport, and I am the President of Demos, Demos is a public policy organization working for an America where we all have an equal say in our democracy and an equal chance in our economy. On March 10th I will be leaving DEMOS to begin my tenure as President of Common Cause, a nonpartisan, nonprofit citizen lobby that works to improve the way Connecticut's government operates. I am here to testify in favor of House Bill 5126, AAC An Agreement Among the States to Election the President of the United States by National Popular Vote.

As you have heard in previous testimony before this committee, the National Popular Vote proposal — or “NPV” — would establish a compact among states to guarantee that the presidency would be awarded to the presidential candidate who receives the most popular votes across the 50 states and District of Columbia. NPV addresses a problematic barrier to a more fully involved and counted electorate — the winner-take-all system — under which all of a state's electoral votes are awarded to the candidate who receives the most popular votes in that state.

Right now, the way we elect the President of the United States is broken. Our national voter turnout numbers are some of the lowest in the world. It is no wonder when you consider that in Presidential elections, most voters are ignored, and all but a handful of states are never even visited by the candidates. Instead, Presidents are elected by a handful of “battleground” states, which shift over time along with demographics. Presidential campaigns are waged in a half-dozen states, with bit parts for another 10 or so, and then the rest of us sit by and watch—or make calls to, travel to, or give money to campaigns in the states where the real action is. While

swing state voters are engaged and courted by the candidates, most voters are cut out of the process and often don't give a thought to the election until a week or so prior to Election Day.

Another huge problem with the current system is that, unlike our methods of electing all other elected officials, it doesn't always elect the popular vote winner. One out of every 14 Presidential elections has resulted in the second-place finisher in the popular vote being elected President—in 2000, 1888, 1876 and 1824-- and we've nearly missed that eventuality many more times. In five of the last 12 races, a flip of a few thousand votes in only one or two states would have elected the loser. For example, in 2004 had John Kerry received just 59,393 more votes in Ohio he would have won the presidency with 271 electoral votes, even though George Bush outpolled him nationally by more than 3 million.

In addition, the current Electoral College system is deeply unpopular with the public. Here in Connecticut, 73% of voters prefer a national popular vote to the current use of the Electoral College. That is a tremendous amount of support, and it comes from every demographic. Results have been similar across the country: Arkansas (80%), California (70%), Colorado (68%), Delaware (75%), Florida (78%), Iowa (63%), Kentucky (80%), Massachusetts (73%), Maine (77%), Massachusetts (73%), Michigan (73%), Mississippi (77%), Missouri (70%), New Hampshire (69%), Nebraska (74%), Nevada (72%), New Mexico (76%), New York (79%), North Carolina (74%), Ohio (70%), Pennsylvania (78%), Rhode Island (74%) Vermont (75%), Virginia (74%), Washington (77%), and Wisconsin (71%). Support for a national popular vote method of electing our Presidents is solid across parties and demographics.

Moving to a National Popular Vote would be Constitutional. Article II, Section 1 of the Constitution spells out the procedure for electing the President. While we, the People, elect our President indirectly through the Electoral College, the text of Article II makes clear, the legislatures of the several states may appoint electors "in such Manner" as they direct. The Constitution makes clear that Congress has no authority to prescribe how a state will appoint its Electoral College votes, and nothing in the constitution mandates the winner-take-all system now used in most states. In fact, two states, Maine and Nebraska, currently use a system other than winner-take-all. In those two states, the winner of each congressional district receives one elector and the winner of the state as a whole gets an additional two electors. Historically, states have used a variety of often-changing methods of selecting electors. In the early republic, more than half of the states chose electors in their legislatures, without any direct involvement by the public. When states began moving toward popular election of presidential electors, they did not take a uniform path: about half used a district system similar to that currently used in Maine and Nebraska, and the other half used a winner-take-all approach. Today, as has been the case throughout the nation's history, states retain the right to alter the method they use to appoint electors—and even to choose a method that does not involve direct popular election. Any state wishing to amend its system need only pass a state law to do so.

It is important to note that while states could appoint electors as they see fit, they may NOT adopt a method of appointing electors that violated the Equal Protection Clause of the 14th Amendment—for example, by appointing electors based on a state popular vote in which the votes of white and black voters were accorded different weight. The National Popular Vote does not violate the 14th amendment, and in fact, the National Popular Vote compact manifestly would

make every person's vote for President equal throughout the United States in an election to fill that office. In these times, when voting rights around the country are being curtailed, and the Supreme Court has rolled back key provisions of the Voting Rights Act, it is now more important than ever to guarantee that every single vote counts equally. Equality is fundamental to representative democracy. The Voting Rights Act of 1965 was passed in order to enfranchise every single eligible voter equally. The National Popular Vote will do just that in the Presidential Election.

The National Popular Vote compact would take effect only when identical enabling legislation has been enacted by states collectively possessing a majority of the electoral votes— that is 270 of the 538 electoral votes. Massachusetts, Rhode Island, Hawaii, Illinois, Maryland, California, New Jersey, and the District of Columbia have already enacted this critical reform, making the proposal 50% of the way to its implementation trigger of 270 electoral votes. Once effective, states would designate all of their electors to the presidential candidate who received the largest number of popular votes in all 50 states and the District of Columbia. States could withdraw from the compact at anytime except during the six-month window between July 20th of an election year and Inauguration Day (January 20th).

While the Electoral College would remain, it would be a vestigial part, with no real role to play other than endorsing the nation's choice for president. Those red and blue election maps we see on the news on Election Night would be replaced with a ticker tallying votes from around the nation. Candidates would visit every corner of the country in one form or another during campaigns, and there would be tremendous incentive to turn out every vote.

The NPV compact would give voters in every state a real voice and a genuine opportunity to participate in presidential elections. The proposal is a vitally important solution that will ensure every citizen's vote will count equally in our presidential elections. The proposal is fair and non-partisan. It would force our presidential candidates to campaign before a much broader range of citizens than they do under the current system, in which a disproportionate share of campaign resources are focused on voters in a handful of battleground swing states. It will ensure that our presidents, in fact, represent a much broader electorate. It will encourage voter turnout and civic engagement and ensure that every vote counts equally when electing the President of the United States.

The proposal enjoys tremendous support, and we appreciate your leadership in this matter. I hope you will support this proposal with an affirmative vote as soon as possible. Thank you.

