

Dear Representatives and Senators of the Government Administration and Elections Committee,

My name is Alex Taubes. I am a lifelong resident of Connecticut, growing up in Fairfield and Madison, later living in New Haven, and now living in Stamford. I continue to work in New Haven as an attorney. I submit this written testimony in support of HB 5434, AN ACT ADOPTING THE INTERSTATE COMPACT TO ELECT THE PRESIDENT OF THE UNITED STATES BY NATIONAL POPULAR VOTE.

I previously testified before this committee, in person, in favor of similar bills in 2013 (Raised Bill 432) and 2014 (Raised Bill 5126). My written testimony from 2013 and 2014 is attached. I am writing in support of the National Popular Vote Interstate Compact because it is the right thing for our democracy and our state, not because of the November 2016 election results. Remember that in 2004, a few thousand votes in Ohio could have swung the election to the Democrats.

I waited for nearly six hours to testify at the LOB in both 2013 and 2014. Since I was a law student at the time, I was able to wait, but now that I am working, I am unable to make the trip. But this is still an issue I am passionate about, along with thousands of other Connecticut residents. We want our elections for President to work like yours—the person with the most votes wins.

Connecticut gets ignored under the current system. This is a fact. Under a system where every vote matters, no place in this country will be ignored. As one of the densest states by population, in fact, Connecticut may even receive *added attention* if a national popular vote is implemented. **Connecticut has one of the densest populations of both Democrats and Republicans in the United States because of its geography.** Both Republican and Democratic candidates are likely to spend more time in Connecticut if there is a National Popular Vote. Both Democrats and Republicans in Connecticut are currently ignored.

More important than having candidates come to us is keeping our people in the state. Each and every presidential election cycle, passionate volunteers from both parties leave Connecticut to go volunteer in places like New Hampshire and Pennsylvania, instead of staying here at home and building our democracy. If presidential votes counted the same no matter where they are, volunteers could stay here in Connecticut during presidential election years and dedicate themselves to local races. So not only will we get more attention from candidates, we'll get a more engaged and involved citizenry as well. NPV is a win for everybody.

A National Popular Vote system is about simple justice: one person, one vote. But it also has important pragmatic benefits for our state. That is why I am submitting my testimony to this committee, for the third time, in favor of the National Popular Vote compact. Thank you.

Alexander Taubes, (203) 909-0048, alextt@gmail.com
former candidate for State Representative, 101st District; former member of the Madison DTC

Testimony of Alex Taubes
Student, Yale Law School
In Support of Raised Bill No. 432
February 25, 2013

Senator Musto, Representative Jutila, and distinguished members of the Government Administration and Elections Committee:

Thank you for the opportunity to speak today in support of Raised Bill No. 432, the bill to elect the President of the United States by National Popular Vote. My name is Alex Taubes. I grew up in Madison, Connecticut and am now a first-year law student at Yale Law School working in partnership with Common Cause in Connecticut.¹ I live in New Haven.

The Electoral College was originally intended to protect states' interests.² But the current Electoral College only protects "swing states" at the expense of all others, big and small. After the 2012 party conventions, for example, the presidential and vice presidential candidates from both parties held all of their campaign events in a mere *twelve* states.³ Connecticut wasn't visited once. Meanwhile, the candidates spent four hundred million dollars on television advertising, but spent 99% targeting voters in just *ten* states—and Connecticut wasn't one of them.⁴

¹ Written under the supervision of J.L. Pottenger, Jr., Nathan Baker Clinical Professor of Law at Yale Law School, Shelley Geballe, Distinguished Senior Fellow at Connecticut Voices for Children and Clinical Visiting Lecturer at Yale Law School, Alex Knopp, Clinical Visiting Lecturer at Yale Law School, and Kim Hynes, Senior Organizer at Common Cause in Connecticut.

² The Constitution originally gave slaveholding states extra influence in the House of Representatives through the "three-fifths compromise," which allowed states to count slaves as three-fifths of a person when calculating their representation. But since slaves could not count in a direct election of the President because they could not vote, slaveholding states would have had less relative influence over the election of the President without the Electoral College. Giving the power to elect the President to electors—equal in number to each state's combined House and Senate seats—protected slaveholding states' interests. See George C. Edwards, *Why the Electoral College is Bad for America* 87 (Yale University Press 2004).

³ Statistics on candidate visits and advertisement spending in the 2012 election are taken from Fair Vote, "Presidential Tracker," last updated November 16, 2012, available at <http://www.fairvote.org/presidential-tracker> (last accessed February 24, 2013).

⁴ Both candidates raised money in the state: President Obama and Governor Romney each received more than \$10,000,000 in campaign contributions from Connecticut residents. As demonstrated above, however, the candidates likely spent much of that money out of state. See Los Angeles Times, "Presidential campaign contributions, by state," last updated November 5, 2012, available at <http://graphics.latimes.com/usmap-presidential-candidate-contributions/> (last accessed February 24, 2013).

The focus on “swing states” influences what happens after elections as well. The Electoral College gives extraordinary power to special interests in the “swing states.” Thus, Cuban American voters in Florida have disproportionate power to influence U.S. foreign policy⁵, ethanol farmers in Iowa have disproportionate power to influence U.S. energy policy⁶, and energy companies in Ohio and Virginia have disproportionate power to influence U.S. environmental policy.⁷ Whether you agree with these groups’ positions or not, the President of the United States should be accountable to the whole nation—not just the voters of “swing states.”⁸

Electing the President of the United States by National Popular Vote isn’t about party politics. We all remember the Electoral College favoring George W. Bush in 2000 even though he earned 500,000 fewer votes than Al Gore. But the National Popular Vote doesn’t necessarily favor Democrats over Republicans. John Kerry could have won the 2004 election—despite earning 3.5 million fewer votes than Bush—with a mere sixty thousand additional votes in Ohio as he would have prevailed in the Electoral College. In short, the National Popular Vote bill doesn’t favor blue states or red states—it’s about getting rid of the red state, blue state divide and making every vote count equally.

Forty-nine years ago, in *Reynolds v. Sims*, Chief Justice Earl Warren wrote, “the weight of a citizen’s vote cannot be made to depend on where he lives.”⁹ The current Electoral College does just that. Of course, the National Popular Vote bill won’t come into effect until it’s passed by states accounting for 270 or more electoral votes. But passing the National Popular Vote bill in Connecticut will bring us one step closer to giving equal weight to all votes cast in the presidential election.

⁵ See Susan Eckstein, *The Immigrant Divide: How Cuban Americans Changed the U.S. and Their Homeland* 113-119 (Routledge 2009) (demonstrating that American embargo policies toward Cuba, generally, have become more restrictive in presidential election years and documenting election-driven foreign policy toward Cuba by presidents of both parties).

⁶ Larry Rother, “In Iowa, McCain Warms to U.S. Role Promoting Ethanol,” *New York Times (The Caucus Blog)*, October 26, 2008, available at <http://thecaucus.blogs.nytimes.com/2008/10/26/in-iowa-mccain-warms-to-us-role-promoting-ethanol/> (last accessed February 24, 2013).

⁷ See Zack Colman, “Climate group pushes Obama campaign to pull pro-coal ad,” *The Hill (Energy & Environment Blog)*, September 11, 2012, available at <http://thehill.com/blogs/e2-wire/e2-wire/261481-climate-group-pushes-obama-campaign-to-pull-pro-coal-ad> (last accessed February 24, 2013); see also John M. Broder, “Re-election Strategy Is Tied to a Shift on Smog,” *New York Times*, November 16, 2011, available at <http://www.nytimes.com/2011/11/17/science/earth/policy-and-politics-collide-as-obama-enters-campaign-mode.html> (last accessed February 24, 2013).

⁸ James Madison echoed this concern at the Constitutional Convention, declaring that “the President is to act for the people, not for States,” Edwards, *Why the Electoral College is Bad for America* at 95.

⁹ 377 U.S. 533, 567.

Testimony by Alex Taubes, student, Yale Law School, in support of House Raised Bill No. 5126, AN ACT CONCERNING AN AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT OF THE UNITED STATES BY NATIONAL POPULAR VOTE.

Thank you for the opportunity to speak today in support of the National Popular Vote. My name is Alex Taubes. I grew up in Madison, Connecticut and am now a second-year law student at Yale Law School. I live in New Haven.

I cast my first presidential ballot by absentee from Boston University in 2008. I missed my second presidential election, because I decided at the last minute to be a poll observer in New Hampshire and didn't have time to vote by absentee. If it were up to me, I would rather be in Connecticut, canvassing my friends and neighbors. I was in New Hampshire—and not in Connecticut—because the winner-takes-all Electoral College makes “swing states” more important in presidential elections.

The best argument for the National Popular Vote is simple. The winner of an election should be the person with the most votes. That was the rule for every elected official here today; every mayor, governor, and member of Congress; and it should be the rule for our President. The last minority vote President was a Republican. But the next could be a Democrat. NPV is not a partisan issue.

Another good argument for the National Popular Vote is often overlooked. If there's a tie in the Electoral College or a three candidate race with no majority, the Electoral College fails to choose a President. Electoral College failure would cause a constitutional crisis and could throw our nation into chaos. The election of the President would go to the U.S. House of Representatives, but each state would get one vote.¹ States that have split house delegations may have no vote at all; and if no candidate had an absolute majority of the states, the nation could be at an impasse for days, weeks, or even months.²

The National Popular Vote system ensures a decisive outcome in the Electoral College—preventing such a crisis. Even if the national popular vote was an exact tie—which is extremely unlikely—the NPV Compact directs states in the compact to cast their votes under the winner-take-all rule.³

The NPV Compact will further Connecticut's interests. Mitt Romney and Barack Obama both ignored Connecticut after the 2012 party conventions. We didn't even get Paul

¹ U.S. CONST. amend. XII.

² See also Testimony of Jack H. Nagel, Professor of Political Science at the University of Pennsylvania, submitted to the General Assembly of Pennsylvania (October 18, 2007), available at <http://www.nationalpopularvote.com/resources/Nagel-Testimony-PENN-2007-10-18.pdf> (last accessed February 23, 2014).

³ H.B. 5126 (2014), Article III. (“In event of a tie for the national popular vote winner, the presidential elector certifying official of each member state shall certify the appointment of the elector slate nominated in association with the presidential slate receiving the largest number of popular votes within that official's own state.”).

Ryan or Joe Biden.⁴ Sure, both campaigns raised more than \$10,000,000 from Connecticut residents.⁵ But less than 1% of their advertising spending was spent in the state.⁶ Some argue that National Popular Vote would cause campaigns to focus on more densely populated areas. If true, Connecticut will benefit: we're the fourth densest state in the nation.⁷

The NPV Compact is constitutional. Article II, Section I of the Constitution gives this legislature the express power to direct its electors in the way it sees fit.⁸ For our nation's first eight presidential elections, Connecticut chose its electors without any popular vote at all.⁹ Today, Connecticut should choose its electors by joining a compact for a National Popular Vote. The Supreme Court has permitted states to enter into compacts without congressional consent in areas states control,¹⁰ and has said that state legislatures have complete power over the manner of choosing electors.¹¹

The NPV Compact will make election disputes less likely. As I mentioned earlier, it ensures a decisive result in the Electoral College. It would also make election recounts less likely. A recent study published by FairVote analyzed election results from 1980 to 2006, looking at the frequency of recounts, vote differences involved, recount outcomes, and the sizes of the relevant electorate. It found that the larger the number of votes cast in an election, the less the likelihood of a recount.¹²

⁴ *Presidential Tracker*, FAIRVOTE, <http://www.fairvote.org/presidential-tracker> (last accessed February 23, 2014).

⁵ *Presidential Campaign Contributions, by State*, L.A. TIMES, <http://www.graphics.latimes.com/usmap-presidential-candidate-contributions/> (last accessed February 23, 2014).

⁶ *Presidential Tracker*, FAIRVOTE.

⁷ *List of U.S. States by Population Density*, WIKIPEDIA, http://en.wikipedia.org/wiki/List_of_U.S._states_by_population_density (last accessed February 24, 2014).

⁸ U.S. CONST. art II, § 1 ("Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress . . .").

⁹ John L. Moore, ed., CONGRESSIONAL QUARTERLY'S GUIDE TO U.S. ELECTIONS 345-46 (3d ed. 1994). The testimony of my colleague Noah Lindell, submitted to this committee, details more of this interesting history.

¹⁰ See, e.g., *Northeast Bancorp v. Board of Governors of Fed. Reserve Sys.*, 472 U.S. 159, 175-176 (1985) ("The application of the Compact Clause is limited to agreements that are 'directed to the formation of any combination tending to the increase of political power in the States, which may encroach upon or interfere with the just supremacy of the United States.'") (citations omitted) (internal quotation marks omitted).

¹¹ *McPherson v. Blacker*, 146 U.S. 1, 35 (1892) ("[I]t is seen that from the formation of the government until now the practical construction of the clause has conceded plenary power to the state legislatures in the matter of the appointment of electors."); see also *Bush v. Gore*, 541 U.S. 98, 104 (2000).

¹² Monideepa Tulkdar & Rob Richie, *A Survey and Analysis of Statewide Election Recounts. 1980-2006*. (2007), available at <http://www.astrid-online.it/Elezioni-U/Studi--ric/FAIRVOTE-Report-ELECTION-RECOUNTS.pdf>

There are many good reasons to support the National Popular Vote Compact. Connecticut should join the Compact as soon as possible, and invite all other states to do the same.