**Chairman’s Message**

**Should We Reform the Electoral College?**

Let’s start with the basics. In presidential races, each state has electoral votes equal to the number of its House representatives plus two for its senators. Currently, there are 435 House members and 100 senators, plus three votes for Washington, D.C. (thanks to the 23rd Amendment), for a total of 538. The candidate who garners a majority—270 or more—wins, even if he loses the popular vote.

That’s what happened in the 2000 Bush versus Gore election, which sparked the effort to switch to popular voting for presidential elections. Ordinarily, that switch would require a constitutional amendment; but a group of activists came up with a scheme—the National Popular Vote Interstate Compact (NPVIC)—that could work without a constitutional amendment.

Article II of the Constitution gives states broad authority to decide how their electoral votes are selected and divided among the candidates. In 48 states, the candidate who gets the most votes wins all of the state’s electoral votes. But the Constitution doesn’t require that rule. Maine and Nebraska have implemented district-by-district voting. One electoral vote goes to the winner in each congressional district, and the remaining two electoral votes are awarded to the winner of the statewide popular vote.

Assume, however, that a state enacts a law giving all its electoral votes to the presidential candidate who wins the national popular vote. And assume further that the law says it will not be effective unless enough other states pass the same law to yield a total of at least 270 electoral votes. That would be perfectly valid under Article II. It would force a majority of electoral votes to be cast for the national popular vote winner—without amending the Constitution.

But is it a good idea? The Framers meticulously crafted an electoral model that reduced sectionalism and reinforced minority rights. Instead, popular voting would favor regions with high voter density and large states over small. “One man, one vote” may be the rallying cry of a democracy, but that is not our form of governance. We are a constitutional republic; political outcomes are not always determined by majority rule. For example, it takes two-thirds of Congress to override presidential vetoes, approve treaties, impeach a president, or expel a member of Congress. Imagine if NPVIC had been operative in 2004: George W. Bush would have received all of California’s electoral votes even though John Kerry trounced Bush statewide by 10 percentage points.

Still, the existing electoral structure may be unwise. Winner-take-all means that candidates will ignore states where the outcome of the popular vote is evident (e.g., California and Texas) even if a number of districts within the state are competitive. Interestingly, 15 California districts elected Republican representatives; 12 Texas districts elected Democrats. Currently, presidential voters in those districts are powerless. But that problem can be mitigated without resort to pure popular voting. The Maine-Nebraska alternative encourages candidates to campaign in competitive districts even when they have little chance statewide.

Yes, there are downsides to district-by-district voting. First, it would increase the number and influence of marginal candidates who have little chance to win statewide majorities. Recall 1992, when Ross Perot captured nearly 19 percent of the national vote, but not a single state. If he had won a significant percentage of electoral votes, the election would have been thrown into the House of Representatives. Second, winner-take-all eliminates the pernicious effect of gerrymandering from presidential elections. Under a district-based system, gerrymandering would impact presidential outcomes as well as congressional results. Third, less populated and closely divided states might attract candidates if the law provided for winner-take-all, but not if electoral votes were narrowly split.

Finally, a practical problem: district-by-district voting would have to be enacted by state legislatures. Because the dominant party would probably lose electoral votes, repeal of winner-take-all would be an uphill battle. Politicians in both parties understand what might have transpired in the recent election. President Obama routed Mitt Romney, 332 to 206 electoral votes. But the Republicans won 24 states and 234 House seats. If the split in the House approximated the district-bydistrict voting for president, a district-based system would have given the Republicans 282 electoral votes—enough to win the presidency.

Regrettably, many legislators will decide on winner-take-all versus district-by-district versus popular voting based on expected political outcomes. On the merits, however, there’s much to recommend the Maine-Nebraska system—if for no other reason than to foreclose the popular voting option.