

Memo

To: Elections Committee of the Michigan House of Representatives
From: Sean Parnell, Senior Director, Save Our States Action
Date: June 6, 2023
Re: HB 4165 / National Popular Vote interstate compact

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I wanted to provide you with additional information regarding HB 4156, the National Popular Vote interstate compact (NPV) which I understand is scheduled to be considered in today's Elections Committee meeting. As you may recall, following the hearing in early March I shared with the committee several corrections to statements that NPV's lobbyist made that day:

- The 26th Amendment does not, as claimed by NPV's lobbyist, prohibit states from allowing individuals under the age of 18 from voting.
- The compact does, contrary to the denials of NPV's lobbyist, specify that only states holding a "statewide popular election" according to the NPV's definition will have their votes included in the national vote count.
- California in 2016 did, as the result of a questionable ballot design decision, wind up doubling the Trump votes total for the compact's purposes.

NPV's lobbyists either dispute or try to distract from the latter two facts, as well as other statements I made to your committee or in other states. In late March NPV's lobbyists produced a document titled "Answering 15 False Statements about the National Popular Vote Bill in Michigan." I am not yet done with a memo responding to each of the 15 statements, but I did want to provide you with more information on the last two points above.

The NPV document now tries to pretend that the Arizona legislation I referenced in my testimony, HB 2476,¹ would have given the Arizona legislature the power to select *all* of the state's presidential electors. Here is how NPV's "15 False Statements" characterizes the legislation and issue:

"Myth #13: The NPV Compact is flawed because it would not accommodate the Arizona legislature if it decided to authorize itself to choose the state's presidential electors."

¹ Available at: <https://apps.azleg.gov/BillStatus/BillOverview/76974>

The NPV document then misquotes my testimony to your committee, deleting references I made to the millions of Arizonans that would still be voting for presidential electors by congressional district, as is currently done in Maine and Nebraska, while the legislature would only pick the last two electors.

Here is the truth: if a bill like HB 2476 were to pass in Arizona or any other state, hundreds of thousands or millions of popular votes would be excluded from the compact's national vote count, something NPV's lobbyists are trying to hide from the committee.

Regarding California's 2016 Certificate of Ascertainment and the extra 4,483,810 million votes, the NPV document states that the state allows fusion voting (true) but then claims that when "...the votes cast on the Republican and American Independent lines on the ballot were added together (that is, "fused"), the final result was a grand total of 4,483,810 for the Trump-Pence ticket."

This is incorrect. There were not separate "lines" for the two parties, instead there was a single Trump-Pence line.² But there were two separate slates of presidential electors for the two parties.³ There was no adding of votes from two separate lines, there was instead a multiplying of votes, where each Trump-Pence vote became 2 votes, one for each of the two separate slates of electors. This caused California to report on its Certificate of Ascertainment 4,483,810 votes for the Republican slate of electors and another 4,483,810 votes for the American Independent slate.

NPV's lobbyists insist the duty of the chief election official in each compact member state is to simply add up all the votes reported on an "official statement," which it typically identifies as each state's Certificate of Ascertainment. So just as they would add into the national vote count the two separate vote totals for the two separate slates of electors pledged to the Johnson-Weld ticket in New York (Libertarian and Independence), they would need to do the same thing for California's two separate vote totals for the two separate slates of electors pledged to the Trump-Pence ticket – the difference being that New York had two separate lines on its ballots for Johnson-Weld while California only had one, making the former accurate while the latter's is inflated by 4,483,810 votes.

I hope this information is helpful to you as you consider HB 4165. I am happy to provide additional information and can be reached at sean@saveourstates.com or 571-289-1374.

² This can be seen on the San Luis Obispo sample ballot from 2016, available at: <https://www.slocounty.ca.gov/Departments/Clerk-Recorder/Forms-Documents/Elections-and-Voting/Past-Elections/General-Elections/2016-11-08-Presidential-General/Sample-Ballot/Sample-Ballot-Ballot-Type-1-2016-11-08.aspx>

³ The full lists of electors and vote totals for each are available at: <https://www.archives.gov/files/electoral-college/2016/ascertainment-california.pdf> Bottom of page 2 for the Republican electors and vote total, top of page 3 for the American Independent electors and vote total.