National Choice Ballot for President

This Special Report examines a new and potentially transformative idea—the National Choice Ballot for president (the “Ballot”). The idea was unveiled in March 2020 postings on the Making Every Vote Count (MEVC) blog. A March 12 post from MEVC pro bono counsel Jonathan Blake contains links to three other documents: a March 6 blog post that reports poll results showing strong bi-partisan support for the Ballot nationally and in Florida; a March 9 amicus curiae brief in the US Supreme Court in the “faithless electors” cases that discusses the Ballot idea; and a March 11 article in Boston Review by MEVC Chair, CEO and co-founder Reed Hundt.

In over 3 years of studying the history of Electoral College reform and advocating for reform, this is the most original and potentially the most transformative idea I have encountered. The Ballot proposal steps around what have become highly partisan battles over whether a state must cast its electoral votes for the winner of the national vote, proposing instead that the voters themselves in each election decide the extent to which they support npv. It layers over the all-or-nothing approach of the Agreement Among the States to Elect the President by National Popular Vote (the “Interstate Compact” or “Compact”) a gradualist, incremental measure attuned to the will of the people in each election. As modest as this idea is, it could result in a fundamental change in the way presidential elections are conducted.

After describing how the Ballot works, this Report offers some preliminary thoughts on why the Ballot might appeal to voters in different circumstances—voters in general, red voters and blue voters and independent voters, voters in battleground states and voters in “safety” red or blue states. The Report then examines in some detail the relationship between the Ballot and the Interstate Compact, covering many points of fundamental agreement and several important differences in method. Finally, the Report compares the Ballot to two other systems that have been employed or will be employed to cast multiple votes for president—approval voting and ranked choice voting.

**How does the National Choice Ballot work?**
The key and distinguishing feature of the National Choice Ballot is this: it provides each individual voter with an option to cast her vote for the winner of the national popular vote (npv). When a voter exercises this choice, the vote for the npv winner is counted in determining the winner of the state’s Electoral College votes.

In addition to the option of casting a npv vote, the voter votes for her top choice for President, as usual. This top choice vote is counted for purposes of determining the winner of the national popular vote—which is important if one or more states awards its electoral votes to the npv winner. Furthermore, unless the voter exercises the npv option, the top choice vote is counted for determining the winner of the state’s popular vote and, thus, the winner of the state’s electoral votes.

It’s very simple, actually. You vote for your top choice for president. If you want, you also cast a generic vote for whoever wins the npv.

• If the npv vote is the same as the top choice vote, it doesn’t matter.
• If the npv vote is different from the top choice vote, the npv vote is counted instead of the top choice vote in deciding who wins the state’s electoral votes.
• If you don’t want to cast a npv vote, you don’t have to. Your top choice vote counts in determining the winner the state’s electoral votes, just as it always did.

Why would a voter want to cast a National Choice Ballot?

There are a lot of reasons, including the following:

One, it’s the right thing to do.

Look at the polling. For decades, large majorities of voters have told pollsters that they believe the candidate who wins the most votes nationally should be elected president. For most people, the National Choice Ballot is an opportunity to vote their consciences.

Two, in so-called battleground states, it empowers third party voters to effectively force the two major parties to be less partisan; it eliminates the so-called “wasted vote” effect for third parties.

The key “battleground” states share two characteristics: (i) they have significant numbers of electoral votes, and (ii) they have historically close margins of victory. Given the Electoral College math, if any significant number of third party voters in even one or two battleground states had the option of casting a National Choice Ballot, both parties would have no choice but to run a national campaign and compete for every vote everywhere. This has the potential to fundamentally change our presidential politics and make it far less partisan.
Indeed, if enough independent voters in enough key battleground states cast National Choice Ballots, the winner of the national popular vote will be elected President. Far from “wasting” their votes, third party voters might decide presidential elections.

*Three, also in so-called battleground states, it empowers moderate voters from each major party to effectively force their party of choice to be less partisan.*

As the Democratic Party presidential primary reveals, there are a great many moderate voters in the world. Indeed, many who voted for Barak Obama also voted for Donald Trump in 2016; and in 2018 in suburbs throughout the nation, women who had voted for Donald Trump voted for a Democrat for Congress. Further, polling on core issues such as climate change, gun violence, and immigration reform shows that Republican voters in substantial numbers support positions that are far more rational and reasonable than the hard core, divisive positions staked out by right-wing movement partisans.

In the run-up to a presidential election, if any substantial numbers of a major party’s own moderate voters in key battleground states voice a willingness to cast a National Choice Ballot, the party will have little choice but to run a national campaign that competes for every vote everywhere.

*Four, in states that are taken for granted, it allows many voters to vote their conscience, unencumbered by tactical considerations.*

In a safely blue state, the National Choice Ballot allows all red and independent voters to vote their consciences on the issue of national popular vote for president. Their normally meaningless votes would finally count for something. The corollary is true for blue and independent voters in a safely red state. “Safe” states that adopt the National Choice Ballot can serve as a sort of testing ground or barometer of nation-wide support for national popular vote for president.

**How does the National Choice Ballot relate to the proposed Interstate Compact to elect the president on the basis of the national popular vote?**

The Compact initiative, under the leadership of National Popular Vote, Inc. (nationalpopularvote.com) and its Chair, Dr. John R. Koza, was launched in 2006. The Interstate Compact is an agreement among states, as authorized under a specific provision of the US Constitution, to cast their electoral votes for the winner of the national popular vote. The Interstate Compact goes into effect when states with 270 Electoral Votes join it; until then, the Compact has no effect whatsoever.
The Interstate Compact might require approval of Congress and will likely prompt a legal challenge that would be decided by the U.S. Supreme Court. The Interstate Compact might not be in effect until 2028 or later.

That Interstate Compact and the National Choice Ballot share many fundamental and important goals and approaches. While some of the methods differ, the two methodologies are completely compatible.

What are the common goals and approaches of the National Choice Ballot and the Interstate Compact?

Along with countless voting rights and good government organizations throughout the nation, supporters of the Compact movement and the Ballot initiative agree that the current, winner-take-all system for selecting presidential electors for the Electoral College is deeply flawed and must be changed to a system based on the national popular vote. They agree on the flaws (e.g., ignoring vast swaths of the American electorate, stoking hyper-partisanship, depressing turnout, creating extreme vulnerability to foreign and other malign manipulation). They agree that basing presidential elections on the national popular vote will repair the currently dysfunctional system.

The two initiatives concur that it is not necessary to abolish the Electoral College (which would require a constitutional amendment) in order to fix the system. Exercising the “plenary” power over presidential elections conferred on them under Article II of the Constitution, the states themselves can implement the needed reforms. They also concur that this effort will of necessity unfold over a number of years. Ultimately, these separate and joined efforts might culminate in a constitutional amendment; they might not. Either way, over time, the states can repair our broken system of presidential elections.

Under the Ballot system, the first choice ballots that are cast become part of the national popular vote total. Thus, results from states that use the Ballot system can be used under the Interstate Compact. The two systems are completely compatible. A state can (and logically should) endorse both the Compact and the Ballot.

How do the methodologies differ?

The fundamental differences have to do with political complexity, timing, form, and scope. These differences do not detract from the fact that the Ballot initiative and the Compact movement are fundamentally aligned. The success of the Ballot can only contribute to the success of the Compact.

The Interstate Compact operates at the highest and most complex levels of the political spectrum. The Compact requires coordinated action by numerous states, potential approval by Congress, and likely review by the United States Supreme Court.
The National Choice Ballot operates at the other end of the spectrum. The Ballot requires approval only by individual states. Further, the extent to which the national popular vote will be relevant in a state’s election is determined by the collective decision of individual voters—the Ballot operates at the grass-roots foundation of our democracy.

The differences regarding timing are stark. The Compact has no effect whatsoever until states with the required number of electoral votes have adopted it. In contrast, the Ballot takes effect—and it will have an effect—as soon as just one state adopts it.

Stated differently, the Compact follows an “all or nothing” approach: either the president is elected on the basis of the national popular vote, or the national vote is irrelevant to the election. In contrast, the Ballot follows an incremental path: as more states adopt the Ballot and more voters use it, the national vote will become increasingly relevant; and, at a minimum, it will help shape how campaigns are conducted. In some elections the Ballot might be determinative of the outcome, even before the Compact is in force.

The Ballot and Compact differ as to form. Under the Compact, all the states are required to agree to exactly the same language. Not so for Ballot language, which States are free to modify as they wish. For example, a state could list the national popular vote choice first, since that really is the first or deciding choice for voters who exercise it. Or a state could give voters the option of making only the national popular vote choice. Or a state using ranked choice voting to determine a voter’s ultimate top choice could also give its voters the option of casting a national popular vote ballot.

The Ballot and Compact differ as to scope. Unlike the Compact, the Ballot does not mandate that the state’s electors be selected on the basis of the national popular vote; it leaves that up to the voters. The voters in each adopting state will determine for themselves the extent to which national popular vote will be relevant in the election for the state’s presidential electors.

In the end, the National Choice Ballot will both support the movement for an Interstate Compact and serve as a failsafe. If, and as, the National Choice Ballot movement grows, support for the Interstate Compact is likely to grow.

Even if the Interstate Compact were to fail—if it were never adopted by the requisite number of states or, having been adopted, were to be invalidated by the Supreme Court—the National Choice Ballot would endure. Voters in adopting states could still cast their votes for the winner of the national vote. National popular vote would remain relevant to our elections, and it would be relevant in each election to the exact extent to which the voters wanted it to be relevant.

How does the National Choice Ballot compare to other systems that have or will involve casting multiple votes for president?
In United States history, two systems for casting multiple votes for president have been (or in 2020 will be) utilized: (i) limited approval voting; and (ii) ranked choice voting.

Approval Voting: the original Electoral College

From 1788 through 1800, the original Electoral College used a system of multiple voting for president. At the Founding, each elector voted for two candidates, who were not ranked. This is a type of “approval” voting (also used to elect popes), a system under which a voter can vote for more than one candidate who has earned the voter’s “approval” or “approbation,” without distinguishing between or among them.

The National Choice Ballot mirrors the original Electoral College by allowing an individual to vote for president twice, not just once. In form, however, the National Choice Ballot appears to be a ranked ballot rather than an approval ballot. On closer examination, this may not be the case.

The second vote (the national choice vote) is simply an affirmation or approval of the judgment of the citizenry at large about who is best suited to serve as president. Rather than an assertive act in support of a voter’s own second ranked choice, it is an approbation of the judgment of the people as a whole and a vote in favor the fundamental principle that in a democracy the one who gets the most votes should be elected. Moreover, the “second” vote is actually the overriding or deciding vote for voters who cast it. Understood in this way, the National Choice Ballot is more akin to approval voting than ranked voting.

Looking more deeply, the idea of voting for the winner of the national vote aligns with the very reason the Framers gave for granting electors two votes. James Madison’s notes of the Constitutional Convention report that the idea of multiple votes for president surfaced in July 1787 during a colloquy among Madison and two other Framers. Remarkably, the initial discussion was about selecting the president on the basis of a national popular vote. The issue was whether a national popular vote system could be devised that would choose a distinguished person of “continental reputation,” one who was well regarded across the young republic. The problem was that voters would tend to favor influential and popular candidates from their own states, with the result that the nation might be unable to coalesce around a consensus choice. The solution was to require voters to vote twice and to vote for candidates from different states. This would solve the “favorite son” problem. The second vote would not be wasted; it would be cast for some eminent personage. The same solution was later incorporated into the Electoral College.

Under the Ballot, the “second” vote, the national choice vote, is a vote to endorse and join the national consensus. As such, it is a vote that unquestionably advances Madison’s
and other Framers’ purpose of devising an election system that favors cohesion over chaos and partisan rancor.

**Approval Voting Today?**

Fast-forwarding from the Founding to the present day, a reasonable case can be made for implementing an Electoral College reform that enacts the July 1787 proposal: elect the president by national popular vote, with all voters allowed two, unranked votes. How does the Ballot compare with this form of simple approval voting?

There are two aspects to this question: the ideal and the practical. To examine the ideal case, start with the assumption that the constitution has been amended to incorporate the July 1787 terms and ask whether the National Choice Ballot would be preferable. The answer is: this is an “apples and oranges” question. The Ballot was never meant to be a final answer or ideal solution or constitutional amendment. The point of the Ballot is to make the national popular vote as relevant as possible, as soon as possible, from now until national popular vote does become the law—through adoption of the Compact, through a constitutional amendment, or otherwise.

The practical question is more interesting and important. In the interim, until such time as national popular vote becomes the law, which system should individual states implement, approval voting or the Ballot?

As an interim measure, approval voting has two serious weaknesses. First, it would do nothing to make national popular vote relevant in a state’s election or to change the dysfunction of the winner-take-all system in the Electoral College. The national vote would still be totally irrelevant to the outcome. There would still be battleground states. Vast swaths of the electorate would still be ignored. Hyper-partisanship would not be diminished. The electoral system would be just as vulnerable to foreign or other malign manipulation.

Second, standard approval voting (in which the second vote is for a specific presidential slate, not for the npv winner) might call into question the very idea of a “national popular vote.” What sort of a national vote total is it when large numbers of voters can vote twice while others vote only once?

As an interim measure, the National Choice Ballot is superior. As elucidated above, it actually is a form of two vote approval voting; but only one of those votes is for a specific candidate, and only one can be counted in the national popular vote total. The Ballot aligns with the Compact and makes the national vote relevant in the state’s election—possibly decisively so. The Ballot fulfills the purpose of the Framers as explained at the Founding.
In 2020, Maine will use Ranked Choice Voting (RCV) for selecting its electors (one in each of two Congressional districts and two state-wide). RCV, championed for several decades by FairVote and its executive director, Robert Richie, allows voters to cast multiple votes for candidates they find acceptable and to rank order their votes. Ballots are counted in a series of elimination rounds, with a voter’s lower ranked choices elevated if a higher ranked choice is eliminated. In Maine’s presidential election, elimination rounds will continue until only two candidates remain.

Maine’s use of RCV in 2020 for selecting presidential electors is a first in the history of presidential elections. Several jurisdictions have adopted RCV for use in lower level elections in 2020, however, and RCV is being used in several Democratic Party primary contests. Thus, understanding how RCV compares with the Ballot is timely and important.

As a tool for advancing the cause of national popular vote for president, RCV also has two weaknesses.

First, like approval voting, RCV voting for a state’s own electors does not advance the national vote cause. The RCV system does not make the national vote relevant in any way and does not change the dysfunction of the winner-take-all system. Battleground states would remain; much of the electorate would be ignored; hyper-partisanship would persist, etc. RCV reforms how a state selects its own electors, but RCV operates in isolation from the presidential election system as a whole.

This weakness could be overcome by layering the Ballot system on top of the RCV reform. For example, in 2020 Maine could use RCV to determine a voter’s individual final top choice (after elimination rounds are completed) and provide the voter the additional option of voting for the winner of the national popular vote.

Second, like standard approval voting, RCV might be inconsistent with the idea of a national popular vote. RCV’s elimination round process necessarily means that some voters’ first choice votes will be discarded. So long as the discarded votes are from third parties with relatively small vote totals, some might dismiss this phenomenon as a mild and necessary side-effect of RCV that does not affect the outcome of the national vote. History demonstrates, however, that third party votes are not the only ones that might be discarded. In 1992, for example, using the Maine RCV system, George H.W. Bush would have received zero popular votes in Maine and Bill Clinton would have received zero popular votes in Utah.
True, Maine and Utah are relatively small states. So, let’s examine 1968. In that year, using Maine’s RCV system, Hubert Humphrey would have received zero popular votes in South Carolina, North Carolina, Tennessee, Arkansas and Georgia; Richard Nixon would have received zero popular votes in Louisiana, Alabama, and Mississippi. The total number of major party first place popular votes that would have been discarded in 1968 is almost 2,000,000. What sort of a national popular vote total is it when almost 2 million major party first place votes are excluded from the calculations?

Again, the National Choice Ballot appears to be superior. The Ballot aligns with the Compact’s process of counting first place votes and with the whole idea of computing a national popular vote total; RCV does not. Standing alone, RCV is not concerned with and does nothing to advance the cause of reforming the Electoral College system by making the national popular vote relevant. This weakness can be overcome by using both RCV and the Ballot. It is not clear, however, whether there is a remedy for the phenomenon of discarding potentially millions of first place votes and, quite possibly, changing the outcome of the national popular vote in the process.

**Conclusion**

Advocates for Electoral College reform, and policy makers responsible for bringing about such reform, would do well to consider and study the merits of the National Choice Ballot. The Ballot is a truly novel and truly creative method for curing the deep contagion that afflicts our system for electing the president. It aligns fully with the Interstate Compact, and, for purposes of advancing the movement for national popular vote, it is superior to either standard approval voting or RCV.

In principle, the Ballot should appeal both to independent voters and to moderate voters from both major parties. The first poll confirms strong support across that spectrum. The Ballot, and its proponents, trust the voters to decide for themselves whether national popular vote is right, and to do so in each election as circumstances warrant. The Ballot is a profoundly democratic, grass roots measure. It is thoroughly bi-partisan. The leaders of its original proponent—Making Every Vote Count Foundation—hale from every presidential administration from Ronald Reagan through Barack Obama.

Whereas the Compact may not be in force for a decade or even more, the Ballot could easily be in force by 2024 and, in some states, possibly as early as 2020. Although all minds are now focused on the novel coronavirus, events may soon require some legislatures to address at least two election issues—implementing vote-by-mail systems, and responding to the Supreme Court’s decision in the “faithless electors” cases. Within the past year, in the following six states sitting legislatures have taken up national popular vote: Colorado, New Mexico and Oregon, which adopted the Compact; and Virginia, Maine and Nevada, where the Compact made substantial strides but ultimately failed. In these states, the topic of national popular vote is fresh on the minds of legislators,
advocates and constituents. Certainly in these states, if the legislature considers other changes in state elections laws in either regular or special session, it would be reasonable to consider whether also either (i) to layer the Ballot system onto the Compact where it has been enacted (Colorado, New Mexico, Oregon), or (ii), where the Compact ultimately failed, to enact the Ballot as a more modest, voter-empowering, and less partisan alternative (Virginia, Maine, Nevada).

National Choice Ballot for President
Supplemental Report: Election Scenarios
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Initial feedback on the Special Report on the National Choice Ballot (the “Ballot”) has pointed out the need for concrete scenarios that illustrate how the Ballot would function in real elections. This Supplemental Report is a first effort to provide such scenarios, for both elections past and elections future.

The report first examines the 2000 presidential election, nationally and in Florida. It then considers what role the Ballot might play in the 2020 election.

Lessons from the 2000 Presidential Election

The 2000 election for president is an ideal, real world illustration of how the Ballot would operate and how it could change presidential elections for the better.

Let’s recall the basics of that election. The 2000 national popular vote was very close. The final margin was only 0.5%, or a bit over 543,000 votes in favor of Al Gore. This is well within the margin of error of any conceivable real-world poll.

Moreover, in 2000 the actual polls had forecast a very close national vote margin. As reported on PollingReport.com, four of five trial heat tracking polls showed George Bush in the lead for the national vote on Nov. 5/6. [Christian Science Monitor (Bush ahead, Gore closing); Reuters/MSNBC/Zogby (Gore had edged slightly ahead); ABC News (Bush slightly ahead, but falling; Gore flat); CNN/USA Today/Gallup (Bush slightly ahead, Gore gaining); Tarvance (Bush ahead, both surging).]

Despite the projected closeness of the national vote, the candidates ignored the national vote; they made essentially no effort to win it. Bush devoted minimal effort to California and New York; Gore largely ignored Texas and the rest of the South (even his home state of Tennessee) except for Florida. As always, the campaigns focused intensely on the battleground states and the Electoral College vote, which was itself extraordinarily close (271-266, with one abstention from the District of Columbia).

Florida, the closest of the close battleground states, is the clearest illustration of how the Ballot can function in a real-world election. The Florida vote was legendary for its closeness—the candidates were separated by a few hundred votes, one one-hundredth of one percent (0.01%).

In such a close election, who would have cast a national popular vote ballot in Florida? Assume for the sake of argument that in a close election in which either party might win the national popular vote, dedicated major party voters would never even consider casting a national popular vote ballot, given that this might hand the election to the opponent.
Still, in any election there are tens of thousands of major party votes that are cast by “undecided,” “fence-sitter,” “coin-flipper” voters—voters who think candidates for both parties are at least minimally acceptable and who do not make up their minds until the last few days of the campaign. And there are the tens of thousands of third party voters—over 131,000 for the top three third parties in Florida in 2000. Any of those voters might find the National Choice Ballot quite appealing.

Indeed, Making Every Vote Count recently commissioned a poll of Florida voters on several issues relating to national popular vote and the Ballot. Respondents overwhelmingly supported having the option to vote for the winner of the national popular vote (68%), including pluralities of democrats, republicans and independents. A bare majority (50%) (including majorities or pluralities of democrats, republicans and independents) also supported the Ballot format, in which a vote is first cast for a candidate and can then be transferred to the national popular vote winner. A strong majority (including 57% of independents, but less than a plurality of republicans) supported a constitutional amendment to elect the president on the basis of the national popular vote.

Assuming these 2020 poll results reflect the sentiments of voters in 2000 even remotely—and there is no reason to assume otherwise—if Florida had adopted the Ballot in 2000, hundreds of thousands of voters would have exercised the popular vote option. The national popular vote choice would have overwhelmed the narrow margin of victory in Florida, assuring the winner of the national vote became president.

In hindsight, all other things being equal and unchanged, this would have benefitted Al Gore. But, given the closeness of the election, the roles could easily have switched, and the Ballot could just as well have benefitted George Bush. Specifically, Gore could have won Florida in 2000 (some believe he did), and Bush could have won the national popular vote—the majority of polls forecast that Bush would win.

Furthermore, and this is a critical point, had the Ballot been in force, things would not have been “unchanged.” Things would have changed profoundly. Instead of ignoring the national popular vote, each candidate, knowing the election was close and that the Ballot was in force in one or more battleground states, would have had no choice but to campaign for every vote in every corner of the country—Bush in blue states and neighborhoods, Gore in red ones. We do not know who would have won that contest, but we do know that the winner of the popular vote would have been elected president.

Florida 2000 is an excellent illustration of how national popular vote can be, and should be, a bipartisan issue. In a close election, neither major party would be advantaged, per se, by having the Ballot available in a given state. It should be to the benefit of each party—and it definitely is for the good of the country—for the national election for president to be genuinely waged and contested throughout the nation.
The Ballot actually transcends partisanship—it is not merely bi-partisan but nonpartisan. Strong majorities of independent voters support the principle of national vote for president. As noted, in the first poll concerning the Ballot, a plurality of independents supported having the option to cast their vote for the winner of the national vote.

Implementing the Ballot in only one state would have transformed how the presidential election was conducted in 2000. While either party might have won, the Ballot would have assured that the outcome was a true expression of the will of the people.

Looking forward to the 2020 Presidential Election

In contemplating 2020, it is good to start with comparisons to 2000. The first question is how close the 2020 election is likely to be. Current indications are that it will be schizophrenic. Unlike 2000, the popular vote election will not be close at all; Biden is reasonably expected to win by 5 million popular votes if not more. Like 2000, the Electoral College might be very close; it might turn on the Eastern District of Nebraska!

Against this background, consider the 2000 “battleground state” scenario. One lesson from 2000 is that, if the Electoral College vote is expected to be close, and if the Ballot is in force in even one key battleground state, the major parties will feel compelled to wage national campaigns seeking votes everywhere. While that would be a welcome change from the type of campaign we see unfolding, this scenario is not going to unfold this year.

Because one of the parties would be almost certain to lose a national popular vote contest and has no intention of waging such a campaign, the Ballot itself—if proposed in a battleground state—would be cast as a partisan issue. Given the political balance of power in the current battleground states, and given the COVID-19 crisis, there is no realistic chance that the legislature in any battleground state will enact the Ballot in 2020. The 2000 scenario is foreclosed.

That leaves the “safely blue state” or “Interstate Compact state” scenario. (All of the states that have joined the Compact can be categorized as “safely blue.”) The Special Report (also available here) mentions a safely blue or red state scenario. Here, we elaborate on the scenario.

The Special Report explains in some detail how the Ballot and the Interstate Compact are in complete alignment with one another. Without recapitulating all those points, it is difficult to think of any substantive or principled reason that an Interstate Compact state would withhold approval of the Ballot.
For some states, practical considerations might prevent action this year. The legislature might not be in session; the deadline for proposing bills might have passed. And COVID-19 leaves little space for consideration of other issues.

Yet, in some jurisdictions the legislature is in session. In fact, legislatures are in session for another 1 ½ to 4 ½ months in the larger states that have joined the Compact—California (adj. August 31); Massachusetts (July 31); New Jersey (June 25); New York (June 2); Illinois (May 31); the District of Columbia Council meets throughout the year. In addition, in any Interstate Compact jurisdiction, a special session might be needed to address urgent election issues, such as implementing vote-by-mail or addressing “faithless electors”.

In 2020, it might be possible for Compact jurisdictions to add the Ballot. Doing so might have far-reaching consequences.

The 2020 election is a golden opportunity to educate the nation about what the Ballot is, how it works and how it can transform our elections. Imagine a presidential election in 2020 in which millions or even tens of millions of voters in California, Massachusetts, New York, Illinois, New Jersey, and/or Washington, D.C., cast national choice ballots. There would be extensive coverage of this extraordinary new idea; the nation would debate it and would come to understand it. By informing the nation about what the Ballot is all about, the 2020 election would lay the foundations for 2024.

In addition, the results from the states that implement the Ballot in 2020 would document the depth and range of support for national popular vote. Consider how the 2020 election would likely play out in various sectors of the electorate in a “safely blue” state.

As for democrats, secure in the belief that Biden will win the national vote, the democratic party would urge all voters to cast national vote ballots, along with casting direct votes for Biden. As for independents, any voter who believes national popular vote is the right way to select the president (a clear majority of independents do) would be likely to cast a generic national vote ballot along with a vote for a third party.

Republicans are likely to split, somewhat along ideological lines. To be sure, many republicans disagree with the national vote approach. Polling has consistently shown, however, that substantial percentages of republican voters—particularly more moderate republicans—agree with the proposition that the person who wins the national popular vote should be elected president. For these voters, the Ballot provides an opportunity to register their support for the national popular vote principle. True, the national choice ballot would replace the vote for Trump with a vote for Biden, but that would not matter. In a safely blue state, a vote for any republican was a “wasted” vote in the first place.
States enacting the Ballot would report all votes. Returns would show how many of each candidate’s voters chose the national popular vote. The election would function as a plebiscite on the concept of national popular vote within each party, as well as for the state as a whole.

Although the Ballot elections would occur only in blue states, this scenario is not at all partisan. In a truly blue state, the result of the state’s own election is a foregone conclusion. In such a state, all voters can freely support or reject the Ballot, knowing that their choices will have no effect whatsoever on the outcome of the election. This scenario is a non-partisan and fair test of support for the concept of electing the president on the basis of the national popular vote.

**A Path Forward, if the Stars are Aligned.**

In the states that have joined the Compact, the virtues of national popular vote are well-understood and enshrined in public policy. In these states, enacting the Ballot should be a small additional step—particularly so if the election reform advocates who have championed the Compact over the years are in agreement that this step should be taken.

It is difficult to think of a good reason why advocates who have supported the Interstate Compact over the years would not support this step. If the advocates are as well aligned as their policies are, pursuing the scenario suggested for 2020 might bear fruit.

Mark Bohnhorst
Chair, Presidential Elections Team
Minnesota Citizens for Clean Elections
Note: Opinions expressed in this report are my own and not necessarily those of Minnesota Citizens for Clean Elections