

January 31, 2023

To: Sen. Jim Carlson, Chair, Senate Elections Committee  
Sen. Mark W. Koran, Ranking Member  
Sen. John Marty  
Sen. Ann Rest  
Sen. John A. Hoffman, Chief Author

Re: SF 538, Hoffman, Rest, Champion, Dziejdzic. National Popular Vote Interstate Compact (NPVIC)

Written statement of support, with suggested modification and related actions

Dear Chair Carlson, Ranking Member Koran, Chief Sponsor Hoffman, and Members Marty and Rest (with whom I have spoken previously):

I am a retired public sector attorney (16 years, So. Minn. Regional Legal Services; 24 years, U. of Minnesota Office of the General Counsel). I have been studying and writing about the electoral college since November 2016, when the Minneapolis Star Tribune published a full commentary in which I voiced support for the NPVIC.

I have organized two, three-hour forums on presidential elections, one in August 2020 and one in September 2022. Each featured leading scholars and advocates, including Dr. John Koza, Prof. Alexander Keyssar, and Jesse Wegman (NYT Editorial Board). I am lead author of two recent law review articles—one on presidential election reform (Lewis & Clark Law Review, Summer 2022) and one on the gross historical errors in the Independent State Legislature Doctrine history (forthcoming in Mitchell Hamline Law Review). I am also coauthor with St. Olaf History Professor Michael W. Fitzgerald of an article we have submitted to a history journal on Reconstruction's overlooked history of conflict and proposed reform regarding the electoral college. Finally, last week I gave a 1 ½ hour talk on the Electoral College as part of the Ramsey County Library/U of Minn. Osher Lifelong Learning Institute "Tuesdays with a Scholar" series. The video should be linked on the Library's website soon.

I am writing for three purposes.

One, I wish to voice my continued support for the NPVIC.

Two, I wish to suggest one small revision (which is nonetheless of some importance). This is to change the 6 month withdrawal period to one year. The change would assure stability in the presidential election process during the presidential election year. Without the change, a member of the Compact could withdraw as late as mid-July and transform the election from NPV to battleground state. The change could be made as a separate measure, to take effect if and only if

states with at least 270 electoral votes that have joined the NPVIC have also agreed to the change.

Three, I wish to suggest that the Committee address the severe partisan divide over this issue by supporting measures that have universal approval. One of these is a state constitutional amendment to assure that in Minnesota the people shall always choose the presidential electors. I suggest that this be on the ballot in 2024. A subsidiary benefit is that such an amendment serves as a repudiation of the bogus Independent State Legislature Doctrine and assures that Minnesota, in joining the NPVIC, is not unwittingly giving aid and comfort to the “plenary power” myth, which I consider a cancer on the soul of democracy.

In a related vein, I suggest the Committee consider supporting a very simple amendment to the US Constitution that also should have universal support. The amendment would provide (i) that the people shall elect the presidential electors, and (ii) that Congress shall have power to provide uniform rules for presidential elections. Such an amendment was proposed and debated in January and February, 1869, and it was approved by more than 2/3 of the Senate. In one of the nation’s most bitterly partisan eras, it had strong support from both Republicans and Democrats. It was one of only seven amendments in US history to receive the required 2/3 support. I would suggest the Committee support a resolution asking that Minnesota’s delegation study and support such an amendment.

Thank you for the opportunity to share these views.

Mark Bohnhorst  
Minneapolis  
District