



10 False and Misleading Criticisms of the National Popular Vote Interstate Compact at the Rhode Island House Hearing on March 25, 2025 (H5519)

April 2, 2025

Sean Parnell, the senior lobbyist for Save Our States, made 10 false or misleading statements about the National Popular Vote Interstate Compact at the hearing before the Rhode Island House Committee on State Government and Elections on March 25, 2025 (H5519).¹

All 10 of Parnell’s criticisms of the Compact were based on inaccurate statements about what is actually in the Compact, what is actually in existing federal law, or other easily verified facts.

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¹ The 2013 Rhode Island bill approving the Compact (H5575) is at <https://webserver.rilegislature.gov/Billtext/BillText13/HouseText13/H5575.htm>. The 2025 bill sponsored by Representative Newberry proposing to repeal the Compact (H5519) is at <https://webserver.rilegislature.gov/BillText/BillText25/HouseText25/H5519.pdf>

False Statement #1: The National Popular Vote Compact allows vote totals to be estimated.

Sean Parnell, the Senior Legislative Director of Save Our States, told the Rhode Island House Committee on State Government and Elections on March 25, 2025:

“There are a number of technical problems, defects in the Compact. ... [One] of these problems include that if for some reason, a non-member state has not yet made its vote totals public by the time the compact requires it, **estimated vote totals can be used instead of real, authentic vote totals**, in order to calculate the national popular vote totals.”² [Emphasis added]

Under both the current system of electing the President and the National Popular Vote Compact, each state’s candidate-by-candidate vote count is certified by a designated state canvassing board or official shortly after Election Day.

Federal law sets a firm deadline for a state to make a final determination of its presidential vote count and issue a Certificate of Ascertainment, namely six days before the Electoral College meeting.³

That same federal law requires that each state transmit to the National Archives its Certificate of Ascertainment

“immediately after the issuance ... by the most expeditious method available.”

The National Archives, in turn, is required to make them “public.”

Despite what Parnell says, the officials of states belonging to the National Popular Vote Compact have no authority to estimate the vote counts from other states.

The Compact’s computation of the national-popular-vote total is based entirely on the official certified vote count produced by each state.

After each state certifies its official vote count, the National Popular Vote Compact requires that:

“The chief election official of each member state **shall treat as conclusive** an official statement containing the number of popular votes in a state for each presidential slate.”⁴ [Emphasis added]

The reader is invited to read [the 888 words of the National Popular Vote Compact](#) and verify that there is nothing in the Compact that allows vote totals to be estimated.

Section 9.30.7 of the 2024 edition of *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* at www.Every-Vote-Equal.com contains details about the process of certifying the popular vote by canvassing boards and officials.⁵

² Hearing before the Rhode Island House Committee on State Government and Elections. March 25, 2025. Timestamp –2:17:38. <https://capitolvri.cablecast.tv/show/11009?site=1>

³ 3 U.S.C. §5(d)(1). The Electoral Count Reform Act of 2022 can be found in appendix B of the 2024 edition of *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* at www.Every-Vote-Equal.com

⁴ National Popular Vote Compact. Article III, Clause 5. The full text of the Compact is at <https://www.nationalpopularvote.com/bill-text>

⁵ Koza, John R.; Fadem, Barry; Grueskin, Mark; Mandell, Michael S.; Richie, Rob; and Zimmerman, Joseph F. 2024. *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote*. Los Altos, CA: National Popular Vote Press. Fifth edition. The 2024 edition of the book is available to read or download for free at www.Every-Vote-Equal.com

False Statement #2: It is unclear how votes from Ranked Choice Voting states would be counted under the Compact.

Parnell told the Rhode Island House Committee on State Government and Elections on March 25, 2025:

“Ranked choice voting creates a problem because [the National Popular Vote Compact] anticipates that every state is going to produce a single vote total for each candidate. [In] ranked choice voting, there at least two [vote totals]—an initial and a final. These numbers can differ by tens or hundreds of thousands of votes, and **it’s not clear which vote total is supposed to be used** ... when they’re aggregating votes across state lines.”⁶

In fact, there is no legitimate uncertainty as to whether to use the first-round count or the final-round count in computing the national popular vote from the states that use ranked choice voting (RCV) for President.

All three RCV-for-President jurisdictions (Maine, Alaska, and the District of Columbia) agree that the vote tally from the **final round** of RCV counting is to be used for computing the national popular vote for President.

Specifically, Maine’s RCV-for-President law provides:

“When the National Popular Vote for President Act governs the appointment of presidential electors, ... the statewide number of votes for each presidential slate that received votes **in the final round** ... is deemed to be the determination of the vote in the State for the purposes of [the National Popular Vote Compact].”⁷ [Emphasis added]

The District of Columbia’s RCV-for-President law provides:

“If the appointment of presidential electors ... is governed by the National Popular Vote Interstate Agreement Act of 2010, ... the final determination of the presidential vote count reported and certified to the States that have enacted such Act, for purposes of that Act, shall be the votes received **in the final round** of tabulation by each slate of candidate.”⁸ [Emphasis added]

The Alaska Supreme Court unanimously stated in 2022:

“According to both [Alaska’s and Maine’s] ranked choice voting laws, the vote count is not complete until **the final round** of tabulation.”⁹ [Emphasis added]

⁶ Hearing before the Rhode Island House Committee on State Government and Elections. March 25, 2025. Timestamp – 2:11:43. <https://capitolvri.cablecast.tv/show/11009?site=1>

⁷ Chapter 628 Public Law. <https://legislature.maine.gov/bills/getPDF.asp?paper=HP1023&item=4&snum=131> The Maine law is discussed in the 2024 *Every Vote Equal* book in section 9.27.1 (page 919). www.Every-Vote-Equal.com

⁸ The District of Columbia law may be found at <https://makeallvotescountdc.org/ballot-initiative/> The D.C. law is discussed in the 2024 *Every Vote Equal* book in section 9.27.1 (pages 920–921). www.Every-Vote-Equal.com

⁹ *Kohlhaas v. State*. 518 P.3d 1095 at 1121. (2022). <https://casetext.com/case/kohlhaas-v-state-2>

After Parnell told a Minnesota legislative committee in 2023 that RCV-for-President laws are “unclear,” Jeanne Massey, Executive Director of FairVote Minnesota (the leading advocate for RCV in Minnesota¹⁰), said:

“I have read the opposing testimony related to RCV and National Popular Vote compatibility, and it is misleading and incorrect. **The testimony comes from an organization opposed to both RCV and NPV and has a clear motive—to hurt both reforms.** ... I urge you to disregard the unproven, misleading argument that RCV and NPV are incompatible and support the NPV legislation before you.”¹¹
[Emphasis added]

Additional details are in section 9.27 of the 2024 edition of *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* at www.Every-Vote-Equal.com.

False Statement #3: California gave Trump an extra 4.5 million votes in 2016, and this error would have made Trump the national popular vote winner.

Parnell told the Rhode Island House Committee on State Government and Elections on March 25, 2025:

“California ... wound up giving Donald Trump an extra 4.5 million votes that would have been applied in the national vote count, because he was the endorsed candidate in California, of course, of the Republican Party, but he was also the endorsed candidate of something called the American Independent Party. And because there was only a single line on the ballot for people to vote for Donald Trump, and there were separate slates of electors. The way the Compact is written, ... it would have **given him [Trump] an extra four and a half million votes in 2016.** Meaning that technically, **Donald Trump would have won under the national popular vote compact in 2016.** Which seems like a pretty defective and broken system, if you ask me.”¹²

Despite what Parnell says, the facts are:

- California’s 2016 Certificate of Ascertainment did not give Trump an extra 4,483,810 votes, and
- the National Popular Vote Compact would not have declared Trump to be the winner of the national popular vote if it had been in effect in 2016.

In fact, the *only* number appearing anywhere on California’s 2016 Certificate of Ascertainment in connection with the Trump-Pence ticket is 4,483,810. That is the number of popular votes that the Trump-Pence ticket actually received in California in 2016.

California’s 2016 Certificate of Ascertainment explicitly states that the Clinton-Kaine ticket’s 8,753,788 vote total was higher than the vote total of any other ticket listed on the Certificate—including the 4,483,810 votes received by the Trump-Pence ticket.

The Certificate reads:

¹⁰ Traub, James. 2023. The Hottest Political Reform of the Moment Gains Ground: Inside Jeanne Massey’s relentless campaign to fix democracy, starting in Minnesota. *Politico*. April 16, 2023. <https://www.politico.com/news/magazine/2023/04/16/ranked-choice-voting-minnesota-00089505>

¹¹ Massey, Jeanne. 2023. Testimony before Minnesota House Elections Finance and Policy Committee. February 1, 2023. <https://www.house.mn.gov/comm/docs/TYRWZhXR-kCyJCxmXC5Z1Q.pdf>

¹² Hearing before the Rhode Island House Committee on State Government and Elections. March 25, 2025. Timestamp – 2:10:30. <https://capitolvri.cablecast.tv/show/11009?site=1>

“I, Edmond G. Brown, Governor of the State of California, hereby certify ... the following persons **received the highest number of votes** for Electors of the President and Vice President of the United States for the State of California ... **California Democratic Party Electors Pledged to Hillary Clinton for President** of the United States and Tim Kaine for Vice President of the United States ... **Number of Votes—8,753,788.**”¹³

Contrary to what Parnell says, the fact that the Trump–Pence ticket happened to have been endorsed by two different political parties does not double the number of votes that the Trump–Pence ticket received from California voters.

If the National Popular Vote Compact had been in effect in 2016, the states belonging to the Compact would have uneventfully, and accurately, credited the Trump–Pence ticket with the number of popular votes that it actually received in California, namely 4,483,810.

Additional details are in section 9.30.5 of the 2024 edition of *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* at www.Every-Vote-Equal.com.

False Statement #4: States could manipulate the Compact by using a “one-person-three-vote” scheme.

Parnell told the Rhode Island House Committee on State Government and Elections on March 25, 2025, that states are free to inflate their vote counts.

“Another issue is that the compact can be very easily manipulated by states. ... A state could simply decide they’re going to report their votes as if every voter had cast as many votes as the state has electors. So Wyoming could, **instead of reporting 125,000 vote margin** for the Republican in the last go around, **they could have reported a 375,000 vote margin, because they have three electors.** And there’s nothing that you would be able to do about it. If you’re in the Compact, you would have to accept these inflated or manipulated vote totals.”¹⁴ [Emphasis added]

Parnell’s “one-person-three-votes” scheme would not work because the vote count used by the National Popular Vote Compact is the number of popular votes received by each “presidential slate”—not the cumulative number of votes received by the three separate candidates for presidential elector in Wyoming (which would be three times larger).

The (much larger) cumulative number of votes cast for all three of Wyoming’s presidential electors is no more relevant to the calculation specified by the Compact than the temperature on the steps of the Wyoming State Capitol on Election Day.

Article III, clause 1 of the Compact states:

“[T]he chief election official of each member state shall determine **the number of votes for each presidential slate** in each State of the United States and in the District of Columbia in which votes have been cast in a statewide popular election and shall add such votes together to produce a ‘national popular vote total’ for each presidential slate.” [Emphasis added]

¹³ California’s 2016 Certificate of Ascertainment is at <https://www.archives.gov/files/electoral-college/2016/ascertainment-california.pdf>

¹⁴ Hearing before the Rhode Island House Committee on State Government and Elections. March 25, 2025. Timestamp –2:09:24. <https://capitolvri.cablecast.tv/show/11009?site=1>

Article V of the Compact defines the term “presidential slate” as follows:

“**‘presidential slate’ shall mean** a slate of two persons, the first of whom has been nominated as a candidate for President of the United States and the second of whom has been nominated as a candidate for Vice President of the United States...”
[Emphasis added]

Article III, clause 5 of the Compact says:

“The chief election official of each member state shall treat as conclusive an official statement containing **the number of popular votes in a state for each presidential slate.**” [Emphasis added]

Additional details are in section 9.31.4 of the 2024 edition of *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* at www.Every-Vote-Equal.com.

False Statement #5: There is no way to challenge incorrect vote counts under the Compact.

Parnell has repeatedly asserted that there is no way to challenge incorrect vote counts under the National Popular Vote Compact. He told the Rhode Island House Committee on State Government and Elections on March 25, 2025:

“And there’s nothing that you would be able to do about it. If you’re in the Compact, you would have to accept these inflated or manipulated vote totals.”¹⁵

The National Popular Vote Compact—like any state law that specifies how presidential electors are to be chosen—would operate *inside* the existing framework of federal and state laws and *inside* the existing federal and state judicial system.

Under both the current system and the National Popular Vote Compact, there are five avenues available to an aggrieved presidential candidate to challenge an incorrect vote count, namely:

- state administrative proceedings (including a recount),
- state lower-court proceedings,
- state supreme court proceedings,
- federal lower-court proceedings, and
- federal proceedings at the U.S. Supreme Court.

In particular, a special three-judge federal court was created by the Electoral Count Reform Act of 2022 to guarantee prompt resolution of disputes over presidential vote counts. Presidential candidates have guaranteed access to this special court. In fact, this special court is only open to them. It has jurisdiction over:

“Any action brought by an aggrieved candidate for President or Vice President that arises under the Constitution or laws of the United States with respect to the issuance of the certification required under section (a)(1), or the transmission of such certification.”¹⁶

This three-judge “Electoral Count Court” has the power to order the revision of a defective Certificate of Ascertainment, and the 2022 law further specifies that the revised Certificate

¹⁵ Hearing before the Rhode Island House Committee on State Government and Elections. March 25, 2025. Timestamp – 2:08:44. <https://capitoltvri.cablecast.tv/show/11009?site=1>

¹⁶ 3 U.S.C. §5(d)(1). The Electoral Count Reform Act of 2022 can be found in appendix B of the 2024 edition of *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* at www.Every-Vote-Equal.com

supersedes the original. This special three-judge court operates on a highly expedited schedule, and there is expedited appeal to the U.S. Supreme Court. All of the actions of this court and the Supreme Court must be scheduled so as to reach a conclusion prior to the Electoral College meeting.

Additional details are in section 9.30 of the 2024 edition of *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* at www.Every-Vote-Equal.com.

False Statement #6: The Compact can be thwarted by secret elections.

Parnell’s statement to the Rhode Island House Committee on State Government and Elections on March 25, 2025, falsely claims that states can keep election returns secret.

“There are a number of technical problems, defects in the Compact. ... [One] of these problems include that if for some reason, **a non-member state has not yet made its vote totals public by the time the compact requires it**, estimated vote totals can be used instead of real, authentic vote totals, in order to calculate the national popular vote totals.”¹⁷ [Emphasis added]

First of all, the National Popular Vote Compact does not “require” any non-member state to do anything.

However, federal law does.

Federal law sets a firm deadline for a state to make a final determination of its presidential vote count and issue a Certificate of Ascertainment, namely six days before the Electoral College meeting.¹⁸

That same federal law requires that each state transmit to the National Archives its Certificate of Ascertainment

“immediately after the issuance ... by the most expeditious method available.”

The National Archives, in turn, is required to make them “public.”

Federal law also established a special three-judge federal court—open only to presidential candidates and operating on a highly expedited schedule—to enforce the “issuance” of each state’s Certificate of Ascertainment and its “transmission” to the National Archives.

In short, federal law does not allow a state to keep its presidential vote count secret.

Despite the requirements of federal law, Parnell has advanced the theory for many years that a state can keep election returns secret.

For example, Parnell told the Connecticut Government Administration and Elections Committee on February 24, 2014, that:

“A very simple way for any non-member state to thwart the Compact, either intentionally or unintentionally, would simply be to not submit their Certificate or release it to the public until after the electoral college has met. This simple act would leave states that are members of the compact without vote totals from every state, **throwing the system into chaos.**”¹⁹ [Emphasis added]

¹⁷ Hearing before the Rhode Island House Committee on State Government and Elections. March 25, 2025. Timestamp – 2:17:38/ <https://capitolvri.cablecast.tv/show/11009?site=1>

¹⁸ 3 U.S.C. §5(d)(1). The Electoral Count Reform Act of 2022 can be found in appendix B of the 2024 edition of *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* at www.Every-Vote-Equal.com

¹⁹ Parnell, Sean. 2014. Testimony before Connecticut Government Administration and Elections Committee. February 24, 2014.

State legislative bills to implement Parnell’s plan for secret elections were introduced and defeated in New Hampshire,^{20,21} South Dakota,^{22,23,24} and North Dakota²⁵ in 2020 and 2021.

Parnell summarized efforts to pass secret election legislation on the Save Our States’s blog on February 10, 2021:

“**What if a state was deliberately trying to thwart the compact? Could they deny NPV compact states access to the vote totals they needed to operate?** Last year legislation was introduced in New Hampshire, HB 1531, that would prevent the release of vote totals prior to the meeting of the Electoral College. Two more states, Mississippi and North Dakota, have similar bills this year (HB 1176 and SB 2271, respectively).”

“**This legislation is specifically aimed at thwarting NPV.**”²⁶ [Emphasis added]

Federal law prevents a state from playing Parnell’s “hide the ball” game with its presidential vote counts:

“§5(a)(1) Certification—Not later than the date that is **6 days before** the time fixed for the meeting of the electors, **the executive of each State shall issue a certificate of ascertainment** of appointment of electors, under and in pursuance of the laws of such State providing for such appointment and ascertainment enacted prior to election day.

“(2) Form of certificate—Each certificate of ascertainment of appointment of electors shall (A) set forth the names of the electors appointed and the canvass or other determination under the laws of such State of **the number of votes** given or cast for each person for whose appointment any and all votes have been given or cast....”²⁷ [Emphasis added]

²⁰ New Hampshire House Bill 1531 of 2020 entitled “Relative to the release of voting information in a presidential election.” https://www.gencourt.state.nh.us/bill_status/legacy/bs2016/

²¹ On January 28, 2020, former Michigan Republican Chair Saul Anuzis testified on behalf of the National Popular Vote organization against the bill. See Testimony Against the Secret Presidential Elections Bill (HB1531) by Saul Anuzis at the New Hampshire House Committee on Election Law https://www.nationalpopularvote.com/sites/default/files/testimony-nh-bill-hb1531-secret_elections-2020-1-28.pdf

²² Hess, Dana. 2020. GOP bill keeps presidential election vote totals a secret in state. *Rapid City Journal*. February 10, 2020. https://rapidcityjournal.com/news/local/gop-bill-keeps-presidential-election-vote-totals-a-secret-in/article_d557b7d1-19b8-5f57-ae23-e4867bdd7c97.html

²³ Heidelberger, Cory Allen. 2020. SB 103: Stalzer Sabotaging National Popular Vote by Keeping South Dakota Vote Count Secret? *Dakota Free Press*. February 10, 2020. <https://dakotafreepress.com/2020/02/10/sb-103-stalzer-sabotaging-national-popular-vote-by-keeping-south-dakota-vote-count-secret/>

²⁴ South Dakota SB103 of 2020. Limit the disclosure of presidential election results and to provide for a suspension of such disclosure. http://sdlegislature.gov/Legislative_Session/Bills/Bill.aspx?Bill=103&Session=2020

²⁵ North Dakota SB2271 of 2021. An Act relating to withholding vote totals for presidential elections. https://ndlegis.gov/assembly/67-2021/regular/bill-overview/bo2271.html?bill_year=2021&bill_number=2271

²⁶ Parnell, Sean. 2021. States consider preemptive measures against National Popular Vote. *Save Our States Blog*. February 10, 2021. Accessed March 31, 2025. <https://saveourstates.com/blog/states-consider-preemptive-measures-against-national-popular-vote>

²⁷ 3 U.S.C. §5(d)(1). The Electoral Count Reform Act of 2022 can be found in appendix B of the 2024 edition of *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* at www.Every-Vote-Equal.com

Federal law also requires that the Certificate be “immediately” transmitted to the National Archives in Washington using “the most expeditious method available.”

“§5(b)(1) Transmission—It shall be the duty of the executive of each State—(1) to transmit to the Archivist of the United States, **immediately after the issuance** of a certificate of ascertainment of appointment of electors and by **the most expeditious method available**, such certificate of ascertainment of appointment of electors.”²⁸
[Emphasis added]

Certificates received by the National Archives must be open to public inspection according to section 6 of the 2022 Act.

Misleading Statement A: Possibility of states manipulating the Compact by lowering their voting age.

Parnell told the Rhode Island House Committee on State Government and Elections on March 25, 2025:

“Another issue is that the compact can be very easily manipulated by states. They can lower their voting age.”²⁹

Parnell tells only half the story in talking about the 17-year-old vote. In particular, he fails to mention that the same thing could occur today under the current system of electing the President.

Moreover, a few extra votes in one of the seven closely divided battleground states can change the national outcome of a presidential election under the current system. That is, the current system is far more susceptible to the effects of politically motivated state-level manipulation than a nationwide vote in which all 50 states matter. Like many criticisms aimed at the National Popular Vote Compact, the criticism applies more to the current state-by-state winner-take-all system than a nationwide system.

As a practical matter, lowering the voting age to 17 would, for example, result in a net gain of about 0.08% in favor of one candidate in the state involved for the following reasons:

- Seventeen-year-olds represent only about 1.2% of the population.
- Only about a third of 17-year-olds would be likely to vote.³⁰
- A third of 1.2% is 0.4%.
- Assuming that one candidate had a lead as big as three-to-two among this 0.4% sliver of the electorate (that is, a split of 0.24% to the opponent’s 0.16%), the favored candidate’s net gain would be only 0.08% in the state involved.

In almost every state, lowering the voting age would require a state constitutional amendment. In general, there is little political support for giving the vote to 17-year-olds. For example,

²⁸ Section 5(b)(1) of the 2022 Act further requires the executive of each state “to transmit to the electors of such State, on or before the day on which the electors are required to meet under section 7, six duplicate-originals of the same certificate.”

²⁹ Hearing before the Rhode Island House Committee on State Government and Elections. March 25, 2025. Timestamp –2:09:24. <https://capitolvri.cablecast.tv/show/11009?site=1>

³⁰ This estimate is based on the fact that the percentage of the U.S. population who voted in the November 2020 general election is highly correlated to age. Turnout was 70% for those aged 75 and over, and it dropped to 64% for those aged 25-34. Then, it dropped to 49%, 47% and 40% for those aged 20, 19, and 18, respectively. The sharp decline in voter turnout from age 20 to 19 to 18 suggests that fewer than 40% of 17-year-olds would be likely to vote if they were permitted to do so. So, a one-third turnout seems like a reasonable estimate for 17-year-olds. See U.S. Census data at <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html>

California voters decisively defeated a constitutional amendment in 2020 to allow 17-year-olds to vote in its June primary if they would be 18 by the time of the November general election.

Additional details are in section 9.18 of the 2024 edition of *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* at www.Every-Vote-Equal.com.

Misleading Statement B: Possibility of states manipulating the Compact by giving parents one additional vote for each of their under-age children.

In a similar vein, Parnell told the Rhode Island House Committee on State Government and Elections on March 25, 2025:

“Another issue is that the compact can be very easily manipulated by states. ... They can **allow parents to cast votes on behalf of their minor children** in order to boost their state’s share of the national vote total.”³¹ [Emphasis added]

The partisan impact of this parental-voting proposal is freely acknowledged by its advocates. Professor Joshua Kleinfeld of the Antonin Scalia Law School and Professor Stephen E. Sachs, the Antonin Scalia Professor of Law at Harvard Law School, have said that there is a:

“two-percentage-point increase in the Republican advantage as between nonparents and parents of children under 18.”³²

There is, of course, no shortage of state-level schemes for manipulating the electorate for partisan advantage. For example, giving extra votes for each year of higher education would skew politics in favor of left-of-center policies.

In any case, Parnell tells only half the story. In particular, he fails to mention that the same thing could occur today under the current system of electing the President.

For example, if a Republican-controlled state government in one of the seven closely divided battleground states (say, Georgia) gave parents extra votes, it is far more likely to affect the national outcome under the current system than in a nationwide election in which over 155 million votes are cast.

Of course, a state law that gives certain adults extra votes based on their number of underage children would violate the Equal Protection Clause of the 14th Amendment. The categories of disadvantaged citizens who would challenge such a law would include:

- married couples with no children (and particularly infertile couples);
- married couples with only one child (who would be less influential than those with two or more children);
- married couples with only two children (who would be less influential than those with three children), and so forth;
- single parents (whose children would be less influential than children in households with two parents gaining the extra votes);
- divorced parents who do not have child custody;
- single persons without children; and

³¹ Hearing before the Rhode Island House Committee on State Government and Elections. March 25, 2025. Timestamp – 2:09:24. <https://capitolvri.cablecast.tv/show/11009?site=1>

³² Kleinfeld, Joshua and Sachs, Stephen E. 2024. Give Parents the Vote. *Notre Dame Law Review*. Page 62. Available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4723276

- members of the United Society of Believers in Christ’s Second Appearing (commonly known as Shakers), who believe in celibacy and would therefore add religious discrimination to the proposal’s constitutional vulnerability.

As a practical matter, there is no significant support for giving parents an additional vote for each of their children.

Additional details are in section 9.39 of the 2024 edition of *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* at www.Every-Vote-Equal.com.

Misleading Statement C: Possibility of a recount not being available in every state.

Parnell also told the Rhode Island House Committee on State Government and Elections on March 25, 2025:

“If the national vote margin were very close, you could not have a national recount, because every state has its own recount laws, and many of them would simply not be able to apply a national margin to their in-state votes. That’s just not the way that their state recount laws are written. **So you would have a partial recount.**”³³
[Emphasis added]

This is another example of Parnell telling only half the story.

In fact, “partial recounts” are what actually happens under the current system of electing the President. Getting a recount in a decisive state under the current system is the exception—not the rule.

There have been numerous examples, under the current system, where a recount was requested, but never conducted, in the states that decide presidential elections.

- In 2000, supporters of George W. Bush were able to use the courts to thwart a hand recount of his slender 537-popular-vote lead in the decisive state of Florida.
- In 2004, attempts to obtain a recount in the decisive state of Ohio were unsuccessful.
- In 2016, requests to obtain recounts in two of that election’s three decisive states (Michigan and Pennsylvania) were successfully blocked in court by the candidate who was in the lead. Only one of the three requested recounts was actually conducted—Wisconsin.
- In 2020, the results of six closely divided states were vigorously disputed, but a statewide recount was conducted in only one state—Georgia.

Moreover, recounts are frequently warranted under the current system, because the winning candidate’s share of the two-party vote in the outcome-determinative states is often only a hair above 50%:

- 50.0046% in the one outcome-determinative state (Florida) in 2000,
- 50.41% in Wisconsin, 50.38% in Pennsylvania, and 50.12% in Michigan in 2016,
- 50.32% in Wisconsin, 50.16% in Arizona, and 50.12% in Georgia in 2020, and
- 50.86% in Pennsylvania, 50.72% in Michigan, and 50.44% in Wisconsin in 2024.

³³ Hearing before the Rhode Island House Committee on State Government and Elections. March 25, 2025. Timestamp 2:11:20. <https://capitolvri.cablecast.tv/show/11009?site=1>

Moreover, the outcome of a single state is more likely to decide the national outcome under the current state-by-state winner-take-all system than under a nationwide system in which all 50 states matter.

- The winning candidate's entire *electoral-vote margin* under the current system came from just one state in 17 of the last 50 presidential elections—that is, a third of the time.³⁴
- In contrast, the winning candidate's entire *national-popular-vote margin* came from just one state in only six out of 50 elections.

It is unfortunate that most state recount laws do not, in practice, allow a presidential election under the current system to be recounted.

The unfortunate unavailability could be addressed if all 50 states and the District of Columbia updated their recount laws. Alternatively, Congress could pass a federal law guaranteeing presidential candidates the right to a timely recount.

The good news is that it is very unlikely that a nationwide recount would ever be needed in a national popular vote for President.

The **multi-million vote margins** regularly produced in a nationwide vote would be far less susceptible to being affected by error or mischief than the **microscopic margins** in one, two, or three outcome-determinative states that regularly decide the presidency under the current system.

In the seven presidential elections between 2000 and 2024:

- The average margin of victory in the national popular vote was 4,327,902.
- The presidency was decided under the current system by an average of a mere 279,628 popular votes spread over an average of three outcome-determinative states.³⁵

The number of votes that are likely to be changed by a nationwide recount (that is, recounts in all 50 states) can be estimated by standard statistical methods applied to historical data about actual recounts.

Data compiled by FairVote shows that there were 36 recounts among the 6,929 statewide general elections in the 24-year period between 2000 and 2023. The probability of a statewide general-election recount is 1-in-192. Only one in 12 recounts changed the outcome. The distribution of changes in the initial winner's number of votes as a result of the recounts in all the statewide recounts during this 24-year period has a mean of 57 votes and a standard deviation of 1,134 votes.

Applying standard statistical methods to the distribution of changes in the initial winner's number of votes as a result of the recounts to 50 states (that is, a nationwide recount) shows that:

- The probability is very high (99.74%) that a nationwide recount would change the initial winner's lead by fewer than 24,294 votes in one direction or the other.
- To say it another way, the probability is very low (0.26% or approximately one chance in 369) that a nationwide recount would change the initial winner's lead by more than 24,294 votes.

³⁴ There have been 50 presidential elections since 1824—the first year in which a majority of the states (in fact, 18 of 24) conducted popular elections for presidential elector. See table 9.16 and 9.17 in section 9.4.3 of the 2024 edition of *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* at www.Every-Vote-Equal.com

³⁵ See table 1.33 in section 1.3 of the 2024 edition of *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* at www.Every-Vote-Equal.com

- Also, the probability is very high (99.74%) that only one nationwide presidential election in 324 would be close enough to be reversed by a recount. That is, one nationwide presidential election every 1,296 years would be close enough to be reversed by a recount.³⁶

In other words, there would be considerably less need for a recount in a nationwide election than under the current state-by-state winner-take-all method of awarding electoral votes.

Because a recount would almost never be needed under the Compact, the Compact is superior to the current system if one is concerned about recounts.

Additional details are in section 9.34 of the 2024 edition of *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* at www.Every-Vote-Equal.com.

Misleading Statement D: Concerning the partisan breakdown of Rhode Island’s 2013 approval of the Compact

Three of the four Republican Senators voted in favor of the National Popular Vote Interstate Compact on its final passage on June 13, 2013.

Nonetheless, Parnell told the Rhode Island House Committee on State Government and Elections on March 25, 2025:

“This bill has a long history here in Rhode Island, there were many bipartisan votes to oppose it, and not let it through. And then, of course, in 2013 **it did make it through, again over bipartisan opposition.**”³⁷ [Emphasis added]

Parnell failed to mention that the National Popular Vote Compact also had **bipartisan support** in 2013.

³⁶ See table 9.50 and figure 9.26 in section 9.34 of the 2024 edition of *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote*. Note that figure 9.26 was inadvertently omitted from the *first* printing of the 2024 book. The missing figure can be found on-line in the *second* printing at www.Every-Vote-Equal.com

³⁷ Hearing before the Rhode Island House Committee on State Government and Elections. March 25, 2025. Timestamp –2:18:42. <https://capitolvri.cablecast.tv/show/11009?site=1>