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To my Republican friends:

Re: National Popular Vote Compact

I wanted to take a moment to discuss questions that many of my Republican colleagues around the country have about the National Popular Vote Compact (which I will refer to as the Compact). These are questions that I have seen in Republican staff analysis in various Legislative bodies, or issues that have arisen in discussions with Republican officeholders or activists in the various states, or in national forums. I wanted to clear up these questions, because I, as a conservative activist, and as a Republican officeholder (I was the Senate Republican Whip and the Assembly Assistant Republican Leader, as well as the Chair of the Senate Constitutional Amendments Committee in the California Legislature. In addition, I was the National Chair of the American Legislative Exchange Council in the year 2000) have had many of those same questions.

As a former Legislator, and a conservative, I take the Constitution, and the original intent of the founders in framing the Constitution, seriously. As originally written, the Constitution (which was, by and large, written by state legislators sent to Philadelphia to represent the interests of their various states) gave the state legislatures three key roles in the federal government. First was the appointment of the United States Senators, second was the redistricting process to determine to the districts of the various Members of Congress after each census, and finally the method by which the President of the United States was elected. Article 2, Section 1 grants exclusive and plenary power to the state legislatures for the appointment of electors. It is a very important, and solemn, power granted to the state legislatures, and one which very few legislators understand, or wish to address. In my opinion, it is, from time to time, important for state legislators to review how their state appoints its electors, and to determine whether the method currently used by their state is the best method for the election of the President of the United States for their state, and for the country at large.

After a considerable amount of study and thought, I have come to the conclusion that the Compact is that best method for the appointment of electors, and I would like to explain why. By way of background, I spent a lot of time while I was in the California Legislature looking at ways to improve how Californians participate in the process of electing the President, both in the primaries and in the general election. I was the prime mover in the rules changes in the California Republican Party which changed how the state Republicans select the delegates to the Republican National Convention. I change that rule (and the state laws implementing that process) in 1999, and it remains the rule to this day. The change I pushed the party to implement in 1999 will determine how California Republicans select their delegates to the national convention this year.

In addition, in 2007, I sponsored an initiative to award California's electors from the current winner take all system to a Congressional district system (where the winner of each Congressional district receives the elector assigned to that district, and the winner of the statewide election receives the two electors allocated to the US Senator spots). While that initiative was not successful (we were not able to collect the signatures to get it to the ballot), the process caused me to contemplate the Electoral College, and the method by which the various states appoint the electors. I came to the conclusion that the Congressional district system had at least two serious flaws:

(1) it would shift presidential campaigns from "battleground states" to battleground Congressional districts. Since there are less than 100 such districts in the country, the flaws of the current system, where presidential candidates curry favor of interest groups in the battleground states, and ignore the rest of the country, would be amplified, where presidential candidates would curry favor with interest groups in battleground Congressional districts. Whereas now, many presidential elections are conducted on the basis of regional elections and regional issues tailored to the battleground states, a Congressional district system would result in the presidential campaigns literally being 70 to 100 local elections on local issues, as opposed to a national election on national issues.

(2) a Congressional district system would turn the redistricting process in each state into a presidential issue with national implications. The decennial redistricting process is difficult enough as it is without the national parties sticking their nose into the state legislature's business every ten years. However, if the outcome of a presidential election turns on how the state legislatures draw congressional district lines, they will. I believe that is not good for the country, or for the state legislators.

Based on that, I came to the conclusion that the Compact is the only rational way to address the question of the election of the President consistent with the Electoral College system established by the Founders. I believe in the Electoral College, and I believe it serves an important function, most importantly, it keeps Congress out of elections laws, which are, and ought to be, the province of the state legislatures. Eliminating the Electoral College would give Congress an excuse to interfere with state election laws. That would not, in my opinion, be healthy for the country. The Compact preserves that important function, while at the same time, making the campaign in the general election for President a national election on national issues, and aligning that election with the expectations of most voters in this country, that is, that the person with the most votes for President ought to become President.

Next, let me address some criticisms of the Compact, and why I believe the critics are wrong, on the facts about the Compact, and on the founders original intent in establishing the Electoral College system of electing the President.

Let's begin with the comment that the Compact is an end run around the Constitution. I will begin with the actual words of the Constitution, and the Federalist Papers as the best evidence of the intent of the Founders:

Article 2, Section 1 of the Constitution states:

"Each state shall appoint, in such manner as the Legislature thereof may direct, a Number of Electors equal to the whole number of Senators and Representatives..." (emphasis added).

In the Federalist No. 45, James Madison states:

"Without the intervention of state legislatures, the President of the United States cannot be elected at all. They must, in all cases, have a great share in his appointment, and will, perhaps in most cases, determine it."

(Interestingly enough, Madison actually backed the popular vote plan in the Constitutional Convention, although supported the ultimate compromise position). In the Federalist No. 68, Alexander Hamilton spoke a lot about the Electoral College, but nowhere does he talk about the current method by which we elect the President. In fact, most state legislatures initially picked the electors themselves, without regard to the vote.

The most important factor governing how a State Legislature allocates electoral votes should be doing is that method which helps the state the most. Most states are completely ignored in the process, with only 8 to 15 battleground states receiving any attention from the Presidential candidates. Many state don't even warrant a campaign stop, whether they are large states or small. California, Texas, New York and Illinois received the same amount of attention as did 12 of the 13 smallest states. All are safely red or safely blue, and as a result none, no matter how large or how small, received any attention from the candidates for President in 2008.

Some opponents seem to suggest that a Constitutional amendment is preferable to the Compact. Nothing can be further from the truth. Amending the Constitution to do what Compact does would be a mistake. Much like the 17th Amendment (direct election of Senators) undermined the state legislatures, removing the electoral college would undermine the power of the state. The Compact does NOT eliminate the electoral college, it changes how the electors are appointed, gives the state the opportunity to withdraw if it is no longer in the state's interest, and keeps the state legislatures in charge of how the President is elected. That is good. An amendment would lead to national standards in elections, where Congress would be telling the states how to run the states' elections (like prohibiting voter id, as some states have allowed, or controlling when registration would be allowed) -- that would not be a good thing. Anyone who believes that any system should have national standards is not an advocate of states' rights.

Other opponents suggest that the Compact would benefit Democrats because "Democrat blue leaning states have a combined population of 133 million while Republican red states have a combined population of 118 million." What those opponents don't understand is that the red states are redder than the blue states are blue. That is, there are more Republicans in blue states than Democrats in red states, but those states where the Republicans predominate find that their votes are irrelevant because of the current way most states award electoral votes. The candidate who gets the most votes in each state wins all the electors in that state. That means if a Democrat gets 51 percent of the votes in a blue state with 10 electors, they get exactly the same amount of electors as a Republican who get 65 percent in red state with the same amount of electors, even though that Republican received more votes in that red state than the Democrat received in the blue state.

It is natural for conservatives to go slow with such a big change. It took me six months of lots of reflection, research and thought to reach the conclusion I have reached in this case. I am asking you to think about this, in light of what it will actually do, and what popular elections do. Don't react to the doomsday rhetoric of the opponents, who use absurd scenarios, and unlikely events (unlikely because none of them have ever happened in the largest popular vote election in the country, the election of the Governor of the State of California).

Simply think about the things you know from experience, what you did to get elected, and figure out what it would mean for a candidate for President to campaign to every voter in every part of the country.

Ask yourself these questions. If the President had to campaign to the voters in my district, would he avoid taking a position on illegal immigration? Would he ignore the issues of my state? Would he not care about the problems that my constituents face every day (as opposed to the problems of voters in battleground states), crowded freeways, high gas prices, and a failing economy? Would he start to take seriously the problems my constituents face, instead of just the problems of the big donors in large states, and the voters in the battleground states? Would he start caring about my constituents the same way I do?

If the Presidential candidate needed their votes to get elected, that candidate would. And with the Compact, he or she would need their votes. That is good for you, and good for your state, and that is the what should drive your vote on the Compact.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray Haynes". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Raymond N. Haynes
Attorney at Law
California State Senate, 1994-2002
California State Assembly, 1992-94, 2002-06
2000 National Chair, American Legislative Exchange Council