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ELECTORAL COLLEGE REFORM

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Pennsylvania State Senate, State Government Committee
4 October 2011

Good morning, I am Charlie Greenawalt, Senior Fellow of The Susquehanna Valley Center for Public Policy, Host of “Behind The Headlines,” a state-wide public affairs TV show, and Professor of Government and Political Affairs at Millersville University. I wish to thank the Committee for inviting Susquehanna Valley Center for Public Policy and me to address the issue of the Electoral College Reform.

The Susquehanna Valley Center for Public Policy is an independent, non-partisan, public policy research organization based in Hershey that stresses accountability, efficiency, and responsibility in government. Therefore, we welcome the chance to meet with you today.

The issue of Electoral College reform has been discussed many times in many different forums. The Susquehanna Valley Center for Public Policy had written about the issue in 2000 after the Presidential election. It came as a surprise to many Americans to learn that our president is not elected by the people but by an institution called The Electoral College. Apparently, our civic and history classes simply do not do an effective job in teaching the subjects of federalism and presidential selection accurately. Many Americans believe that the people elect our president, when that idea was soundly rejected by our Founding Fathers.

Indeed, in 1787 in Philadelphia our Founding Fathers established a new way of organizing sovereignty that we call federalism. Up to that time, all governments were either unitary or confederal. The great invention of the Constitutional Convention was this new method of organizing government—federalism. The United States, of course, is a federal republic of states, not people, and the state governments had to ratify this new Constitution for it to take effect. Our president is elected by our states, not the people, through The Electoral College. To emphasize that we are a republic of states, our Founding Fathers decided to have a bicameral legislature, with the upper chamber—the U.S. Senate—having equal representation based on states with those senators being directly chosen by the various state legislatures. That way, the states were clearly represented in our federal government in the Congress. There are still some observers who question the wisdom of the Seventeenth Amendment to the U.S. Constitution. It appears to deviate from the intentions of our Founding Fathers.

In the United States, two kinds of majorities are needed to govern—a majority of citizens as seen in the creation of the U.S. House of Representatives and a majority of states, as seen in the creation of the U.S. Senate. Therefore, power in the new system they created was based on both population and on state sovereignty, a geographic consideration. Therefore, a system to award electors based on Congressional

districts is best for assuring the representation of all people in a state. In fact, one should remember that when no candidate receives a majority of the Electoral College votes for president that the presidential election is then decided in the U. S. House of Representatives, where each state will have one vote. So if U. S. representatives are responsible for choosing the new president, does it not make sense for a state to distribute its Electoral College votes on the same basis—the basis that was implied by the Founders. In such deadlocked presidential elections, the vice-president is chosen by the U.S. Senate.

Article II, Section I, Clause 2 of the U. S. Constitution declares that each state shall appoint Electors, “in such Manner as the Legislature thereof may direct.” This has become known as the Elector Appointment Clause of the Constitution. Each state legislature can decide how the state will appoint electors: by statewide popular vote, district popular vote, or by the legislature itself. So, distributing Electors by Congressional districts is clearly legal and one of the ways that was thought of by the Founding Fathers.

Michael McLaughlin, in the *Fordham Law Review* in 2008 observed that the Constitution gave power to the state legislatures to appoint the Electors so that all the people of each state would be represented. In fact, the best way for all people of each state to be represented and empowered is through the selection of Electors in individual Congressional districts.

The Electoral College reinforces the compromises of the Constitutional Convention for federalism and for separation of powers. The system gives each state a number of electors equal to the state’s combined representatives in the House and the Senate. Again, this arrangement dictates that the fairest way to distribute a state’s Electoral College votes is to award the two Electoral College votes for the U.S. Senators based on the state’s popular vote, but to also award the remaining state’s Electoral College votes by Congressional District-- One Electoral College vote per Congressional District. This is the only fair way to ensure that every voter in the Commonwealth of Pennsylvania or any other state will be fairly represented.

Indeed, it was this desire that drove the states of Nebraska and Maine to change their Electoral College vote distribution method. The state of California also was considering this change, but since the change was being considered being made through a statewide voter initiative instead of through a vote of the state legislature, the measure was delayed by legal discussions and failed to receive a sufficient number of citizen signatures on initiative petitions.

While distributing Electoral College votes from each state by Congressional District is a useful step in improving our process of presidential selection in the Commonwealth, there has been a Trojan Horse in this discussion that the Susquehanna Valley Center has been concerned about for several years. That Trojan Horse is, of course, the concept of the National Popular Vote Initiative. Let me be clear that there is no concept or idea in this discussion that is more at variance with the Founding Fathers’ intentions than the National Popular Vote Initiative, which would give all of the states’ Electoral College votes to the presidential candidate who has received the largest number of popular votes nationwide. This proposal clearly flies in the face of the Constitution and the intent of the Founding Fathers. One would hope that all of Pennsylvania’s state legislators would be well versed in the attitude the Founding Fathers had about different forms of direct democracy. Many of the Constitutional protections that the Founding Fathers gave to small states would be eliminated by this proposal, and the smaller states and their citizens would virtually disappear from the presidential selection process.

Two concerns about this proposal that have been heard a great deal in the media is that the adoption of this plan would decrease the Commonwealth's influence and power in the Union and that less campaign money would be brought into the state and spent during presidential elections. While these assertions can be forwarded, the process of advancing them does not make them true. One could argue that the adoption of the Congressional District distribution method will result in more money being brought into the Commonwealth as both candidates and parties seek to win each Congressional District. In fact, this method should result in the campaign funds being spent more evenly across the state than was true before. In addition, one can also argue that the Commonwealth's importance will increase in the presidential race since both candidates know that they must contest all but two of the votes on a district by district basis. In order to have effective campaigns in each district, the candidates and their surrogates will need to have a personal presence in each district. Pennsylvania will see much more of both presidential candidates with the adoption of Senator Pileggi's proposal than if we leave our system untouched. The candidates will bring their war chests with them.

Finally, each presidential candidate will be campaigning for themselves while visiting the various Congressional Districts. While there may be some limited "coattail effect" from the presidential candidates for the candidates of their party running for Congress, it should not be strong enough to cause the defeat or victory of any Congressional candidates. The fact that both major parties will be campaigning in all of the Congressional Districts will see any influences on Congressional races being cancelled by the opposing campaign.

Our Electoral College has served the nation well through the centuries. It has provided a stable way to choose our presidents through the states as our Constitution has stipulated. The legislature is within its rights under the Constitution to award its Electoral College votes by Congressional District, and this method of vote distribution will allow the votes of all the people of the Commonwealth to count, not just the votes of Philadelphia and Pittsburgh.

Thank you for your attention. Since we had only ten minutes to testify today, the Susquehanna Valley Center for Public Policy will be issuing a longer, more in-depth report on this proposal in the next few days. We will also provide that information to you.