

LWV of Albany County

December 2008

Educate

Participate

Advocate

HOLIDAY LUNCHEON

with Congressman Michael McNulty

Wednesday, December 10 @ 12 Noon (\$20)

Normanside Country Club - Delmar

Salisbury Road (off Delaware Ave, west of Delaware Plaza)

Choice of Entree: Roasted Vegetables Napoleon W/Brown Rice, Chicken Marsala, or Lemon Sole

Choice of Dessert: Apple Crisp (w/oats) OR Dark Chocolate Mousse

Please RSVP to GAEL VECCHIO (459-9958) BY DEC 3 (WED)

Congressman Michael McNulty

First elected to public office in November 1969 as Town Supervisor of Green Island, Michael McNulty became the youngest Town Supervisor in New York State at the age of 22. After serving eight years as Supervisor, he was elected Mayor of the Village of Green Island and served in that capacity until he was elected to represent New York's 106th Assembly District in 1982.

Mike was first elected to the U.S. House of Representatives for the 23rd Congressional District of New York in 1988, and was re-elected in 1990. In 1992, he was elected to represent the new 21st Congressional District. McNulty was re-elected to his tenth term in the U.S. House of Representatives in November 2006, with roughly 78% of the vote. The 21st Congressional District includes all of Albany, Montgomery, Schenectady and Schoharie Counties, and portions of Fulton, Rensselaer and Saratoga Counties. He now serves as At-Large Whip. Congressman McNulty has served on the Armed Services Committee, the Small Business Committee, the International Relations Committee, and the Committee on Post Office and Civil Service. From 1989 until its dissolution in 1993, he served on the Select Committee on Hunger. He was also a member of the Executive Committee of the Congressional Human Rights Caucus.

In 2008, McNulty begins his fifteenth year of service on the powerful House Ways & Means Committee, which has jurisdiction over taxation, international trade, health care, human resources and Social Security. He is Chairman of the Subcommittee on Social Security. He also serves on the Subcommittee on Income Security and Family Support. Congressman McNulty has traveled to all seven continents, the North Pole and the South Pole.

McNulty became an Eagle Scout in the Boy Scouts of America on July 15, 1960, at the age of twelve. He is a graduate of St. Joseph's Institute, Barrytown, N.Y.; Loyola University Rome Center, Rome, Italy; and the College of Holy Cross, Worcester, Massachusetts, where he earned a Bachelor of Arts Degree in Political Science. He is also a graduate of the Hill School of Insurance in New York City. He is married to the former Nancy Ann Lazzaro, and has four daughters and five grandchildren.

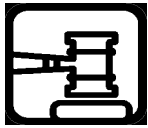
League of Women Voters of Albany County

Website: www.lwvalbany.org Email: lwvac@crisny.org

Lori Keegan-Brady and Maggie Moehringer, Co-Presidents

Carol Webster (439-1491) and Martha Kennedy (439-4559), Membership Co-Chairs

Laura Ladd Bierman, Newsletter Editor



From the Co-Presidents

We hope that everyone has a wonderful holiday season! LWVAC's month is starting on December 2nd with our trip to the UN with the State League (if you've never been, a great time is had by all!). Our own Betsey Swan, who wears another hat on the State League Board, our own Laura Bierman, who is the LWVNYS Executive Director, and Stephanie Lopez, with whom many of you have spoken at the League office, have planned a great day, with a seminar on "The Impact of Global Warming on Women and Children" and a cocktail party at a League member's home afterwards. If you can't go, vow to go next year.

Who would have thought that Soup and Sex would be such a great mix? Our first Souper Supper outdid our typical array of soups and sides, and a fine crowd heard a very compelling speaker, Carol Stenger, discuss why some of the industrialized European nations enjoy much lower teen pregnancy and STD rates than ours in the US. Thanks to Katie Henrikson, who is very active with Planned Parenthood, for planning this meeting; it reminded us of how far we have to go as a nation in caring for our young people. By the way, Planned Parenthood is really the ONLY source of advice and medical care for sexually active teenagers if confidentiality is important to them.

In some of our bulletin issues last year, we discussed the concept of the National Popular Vote (NPV). At that point, NPV was to be a NYS study, proposed and chaired by our compatriots in the Saratoga League. However, at LWVUS National Convention last summer, it was adopted as a *national* study, and Leagues that wish to do the study will need to come to consensus on the issue by May 1, 2008. In this issue of the bulletin, a background paper on the topic, issued by the national study committee, is included for your reading pleasure. We don't anticipate that this will be a study that demands a lot of background research and discussion, and we do think that our members could probably come to consensus after doing the background reading and coming to a combined issue presentation and consensus meeting. Since our buddy League in Saratoga has worked so hard on this study, we would very much like to pay them the compliment of doing it, as a League. Now, here comes the hard part: WE NEED SOMEONE(S) WHO IS INTERESTED IN THE TOPIC OF THE ELECTORAL COLLEGE TO "CHAIR" THE STUDY, which in this case means being conversant with the background on the League's positions relative to the Electoral College (included in this issue), being familiar with the NPV proposal (also in this issue), being familiar with pro and con arguments (also mostly in this issue), and facilitating the consensus meeting. PLEASE, if you are interested, contact Maggie (475-0969) or Lori (475-0396).

Happy Holiday!!

Yours in League,

Maggie and Lori



New Members

Judy Thomson Delmar
Janet Messina Delmar

Welcome!



The League of Women Voters is a nonpartisan citizen organization that promotes the informed and active participation of citizens in government, and influences public policy through education and advocacy. Any person of voting age, male or female, may become a League member.

This newsletter is published by the League of Women Voters of Albany County, 12 Coventry Road, Glenmont, New York 12077 and mailed to League members. The frequency of publication is as follows: one mid-summer issue followed by nine monthly issues from September to May.

Early Voting: What's Happening in NYS?

Did you notice during the election that other states had very substantive numbers of voters voting early – either in person or by mail? So what’s with NY State? Currently, here in NY, if you can’t vote at the polls on Election Day, and you have a valid excuse (and document it), you can vote by absentee ballot, either in person or by mail, but you must have that excuse. Excuses include absence due to:

- pressing duties, occupation, business, studies or vacation
- being a patient or inmate in VA Hospital
- jail or prison
- illness or physical disability, or being a hospital patient
- accompanying a spouse, parent, or child.

There is legislation pending to change this, so that anyone, excuse or no, can vote by absentee ballot. Keep in mind that in California, where voting by mail is available, 42% of the voters voted this way. Convenient? Yes. Are there advantages? Yes, but increasing voter turnout may not be one of them, according to studies. Problematic? You betcha, particularly for a state that has difficulty with planning for, staffing, and effecting changes in procedure (witness HAVA and the new voting machines), and that has had issues with insulating the absentee ballot process from corrupt and coercive practices.

Leagues nationwide are discussing the topic and National League is following the issues. Here’s a primer on “early voting”.

TYPES:

1. In-Person Early Voting
2. Voting by Mail:



Permanent absentee – usually, but not always, reserved for the elderly and/or those voters with disabilities. These voters automatically receive a ballot in the mail for every election. Some state laws provide for periodic review of the “permanent” status, specifically if the voter does not cast a ballot after several elections.

Absentee (Voter must provide a reason or excuse) - requires voters to certify that they meet certain criteria, i.e. absent from the jurisdiction on Election Day, temporarily ill or disabled, etc. Some states require that the application to request a ballot must be notarized.

Early Voting/Absentee (Voter does not have to provide a reason or excuse) - based on state law, voters may submit a request to vote by mail. In some states the request is valid for one or more years. In other states, an application must be completed and submitted for each election.

Vote by Mail – all votes are cast by mail. Currently, Oregon is the only vote by mail state; however, several states allow all-mail ballot voting options for ballot initiatives.

In person:

- 34 states allow people to vote in person before Election Day. 31 don’t require an excuse; 3 states and the District of Columbia do.
- 16 states do not allow early or in-person absentee voting.

By mail:

- 28 states allow no-excuse absentee voting by mail. Oregon is totally vote-by-mail.
- 22 states and the District of Columbia require an excuse to vote absentee by mail.

Source: *Early Voting Information Center at Reed College (see chart)*

Volunteers Wanted: Would You Like To Work With New Voters And Young People?

Whether you are a new or old member of the Albany County League of Women Voters you are in a position to help us to plan for our future in a very practical way. This year we have made important strides in outreach to young voters through our partnership with the Albany Public School System on Vote 18 and our numerous Voter Registration Drives, but we must also find ways to attract young voters into civic life and to the League as a vibrant part of that civic life!!! If you are interested either in working on an initiative to expand our sponsorship of Vote 18 and/or the issue of young membership outreach, we’d like to hear from you. Based on response, we envision holding at least one focus group session to brainstorm on a sustaining outreach effort. Please e-mail your interest to Maggie Moehringer (mmoehrin@nycap.rr.com).

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LWVUS Study on the National Popular Vote Compact

Background Paper

By Carol Mellor



Selection of the President

The League's History

A League study of the presidential electoral process culminated in its *1970 position supporting direct election of the President by popular vote* as an essential element of representative government. The League also has supported *national* voting qualifications and procedures for presidential elections to ensure equity for voters from all states and to facilitate the electoral process.

At the 2002 Convention, the League voted to expand and update its position. The League came to concurrence on a new position in June 2004. The new position takes into account the entire presidential selection process and supports a process that produces the best possible candidates, informed voters and optimum voter participation.

At the 2008 Convention, the delegates voted to adopt a new study, "The Advisability of Using the National Popular Vote Compact among the States as a Method for Electing the President."

The League's Position

Statement of Position on Selection of the President, as Announced by the National Board, January 1970, Revised March 1982 and Updated June 2004:

The League of Women Voters of the United States believes that the direct-popular-vote method for electing the President and Vice-President is essential to representative government. The League of Women Voters believes, therefore, that the Electoral College should be abolished. The League also supports uniform voting qualifications and procedures for presidential elections. The League supports changes in the presidential election system – from the candidate selection process to the general election. We support efforts to provide voters with sufficient information about candidates and their positions, public policy issues and the selection process itself. The League supports action to ensure that the media, political parties, candidates, and all levels of government achieve these goals and provide that information.

Explanation of the Position

The League strongly believes that the Electoral College should be abolished and not merely "reformed." One "reform" which the League specifically rejects is the voting by electors based on proportional representation in lieu of the present "winner-takes-all" method. Such a system would apportion the electoral votes of a state based on the popular vote in that state. Instead of making the Electoral College more representative, such proportional voting would increase the chance that no candidate would receive a majority in the Electoral College, thereby sending the election of the President to the House of Representatives where each state, regardless of population, would receive only one vote. Election of the President by the House further removes the decision from the people and is contrary to the "one person, one vote" principle. The League also does not support reform of the Electoral College on a state-by-state basis because the League believes there should be uniformity across the nation in the systems used to elect the President.

The Electoral College - A Review

Although the LWVUS has specifically adopted a position calling for the abolition of the Electoral College, a short review of the mechanics of that system of Selection of the President is helpful to an understanding of the National Popular Vote Compact.

The Electoral College is a process established by the founding fathers as a compromise between election of the President by Congress and election by popular vote. In short, the people of the United States vote for electors who

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National Popular Vote Compact



then vote for the President and Vice President. Each state is entitled to a number of presidential electors equal to its total representation in the House and Senate. The District of Columbia is awarded a number of electors equal to that of the least populous state.

The founding fathers designed this constitutional plan to promote several principles they considered important. One goal was to ensure that smaller states had a role in the election of the President. Secondly, the emphasis on the power of the state as contrasted to the power of the individual voter fostered the principles of federalism which are the core of the governmental process. Finally, the use of electors rather than popular vote assuaged concerns that the electorate was not competent or knowledgeable enough to be entrusted with the direct election of important government officials, such as the President and Vice President.

The electors are selected, according to the Constitution, in the “manner” designated by the state’s “legislature” (the Congress in the case of the District). At present, the “manner” chosen by every state is by popular election. Most of the states (and the District of Columbia) use a winner-take-all system, in which the candidate who receives a majority of the vote, or a plurality of the popular vote (less than 50 percent but more than any other candidate) takes all of the State’s electoral votes. In Maine and Nebraska, the winner of the popular vote in each congressional district wins an elector, and the remaining two electors are chosen based on the statewide vote.

On Election Day, the voters cast their ballots for electors, even though the names of the candidates for President and Vice President are often the names shown on the ballot. Each state’s electors meet forty days after Election Day, and the formal balloting for president takes place at those meetings.

Many different proposals to alter the presidential election process by amending the Constitution, including direct nation-wide election by the people, have been offered over the years. None have been passed by Congress and sent to the States for ratification. Under the most common method for amending the Constitution, an amendment must be proposed by a two-thirds majority in both houses of Congress and ratified by three-fourths of the states.

The Movement against the Electoral College

The most compelling argument against the Electoral College is that it prevents the direct election of the President by popular vote and is, therefore, contrary to modern principles of representative government. Studies show that more than 70 percent of American citizens favor the election of the President by popular vote.

Beyond this basic theoretical objection is the very practical objection that the Electoral College system enables candidates who have not received the most votes cast by American voters to become President.

We have seen such an outcome four times in our history. The first time was the 1824 election which was won by John Q. Adams even though he received fewer electoral votes and fewer popular votes than Andrew Jackson. (Adams won the election in the House of Representatives, with 13 State delegations voting for him, seven voting for Jackson and three voting for Crawford. This happened because there were more than two viable candidates, and would have been a less likely outcome in a two candidate race.)

In 1828, Rutherford B. Hayes beat Samuel J. Tilden by one electoral vote, becoming President despite trailing in the popular vote by a count of 4,288,546 to 4,034,311. In 1888, Benjamin Harrison beat Grover Cleveland with an electoral vote of 233 to 168, despite Cleveland’s popular vote margin of 5,534,488 to 5,443,892. Most recently, in the 2000 presidential election, George W. Bush received fewer popular votes than Albert Gore, Jr., but received a majority of electoral votes. The situation was almost reversed in 2004. Although President Bush received more than three million more popular votes than John Kerry, Kerry would have been elected President if Ohio’s electoral votes had been cast in his favor.

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National Popular Vote Compact



These circumstances have prompted much discussion on the advisability and feasibility of reforming our election process to eliminate the Electoral College and to elect the President by direct election. This conversation is not new. Over the past 200 years, according to the National Archives, more than 700 proposals have been introduced in Congress to reform or eliminate the Electoral College. Indeed, several joint resolutions were introduced in the current Congress on this issue. The proposals, all introduced in the House of Representatives, were referred to the Committee on the Judiciary, where no action has been taken.



Against this background comes the National Popular Vote Compact Proposal (NPV).

The National Popular Vote Compact Proposal

The National Popular Vote Compact proposal offers a method of achieving the result of election of the President by popular vote without amending the Constitution to eliminate the Electoral College. Instead, this method uses the mechanism of the Electoral College to ensure that the candidate who receives the most popular votes is elected President of the United States.

Under the proposed legislation to enact the National Popular Vote Compact, all of the state's electoral votes would be awarded to the presidential candidate who receives the most popular votes in all 50 states and the District of Columbia. The bill would take effect only when enacted, in identical form, by states possessing a majority of the electoral votes—that is, enough electoral votes to elect a President (270 of 538)



The NPV Compact proposal is predicated upon the portion of the United States Constitution which states: “Each State shall appoint, in such Manner **as the Legislature thereof may direct**, a Number of Electors...” (*Article II, Section 1, Clause 2*) (boldface emphasis added)

The constitutional wording, “as the Legislature thereof may direct,” contains no restriction on the states’ exercise of their power with respect to their electors. The U.S. Supreme Court has repeatedly characterized the authority of the states over the manner of awarding their electoral votes as “plenary” and “exclusive.” Therefore, the states have the right to decide how to select their electors and award their electoral votes. Thus, proponents of the NPV Compact claim that the U.S. Constitution need not be changed in order to implement nationwide NPV. Rather, they maintain, this change can be accomplished in the same way that the current system evolved—namely, the states will use their exclusive and plenary power to decide the manner of awarding their electoral votes.

An additional constitutional underpinning of the NPV is the Compact Clause (*Article I, Section 10, Clause 3*), which permits states to enter into legally enforceable contractual obligations to undertake agreed joint action with other states. Interstate compacts are typically used to address problems that concern more than one state—the states which are affected enter into a compact (contract) which regulates their actions, ensuring uniform response by the states to address their mutual concerns. These contracts are typically enacted through the passage of identical legislation by the compacting states.

Under the state legislation proposed to establish the NPV, the popular vote counts from all 50 states and the District of Columbia would be added together to obtain a national grand total for each presidential candidate. Then, state elections officials in all states participating in the plan would award their electoral votes to the presidential candidate who receives the largest number of popular votes in all 50 states and the District of Columbia. The NPV Compact plan would take effect only when it has been enacted by states collectively possessing a majority of the electoral votes. The 270-vote threshold also corresponds essentially to states representing a majority of the people of the United States. As a result, every vote in all 50 states and the District of Columbia would be equally important in presidential elections.

The compact contains a six-month blackout period during which no state can withdraw from the compact. The blackout period starts on July 20 of each presidential election year and runs through the January 20 inauguration.

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National Popular Vote Compact



Interstate compacts are contracts. It is settled compact law and settled constitutional law that withdrawal restrictions—very common in interstate compacts—are enforceable because the U.S. Constitution prohibits a state from impairing any obligation of contract.

The legislation contains other procedural provisions that would ensure the smooth functioning of the agreement. For example, one clause addresses the possibility of a tie in the national popular vote. If there is no national popular vote winner, each state chooses the electors for the candidate who has won that state.

Another clause addresses circumstances in which the winner of the national popular vote might be prevented from receiving the electoral votes from a member state. For example, it is possible that the winner of the national popular vote fails to appear as a candidate in a particular state and, therefore, there are no appropriate electors for the state to certify. To address that situation and five other situations identified by the drafters of the legislation as possible anomalies in the process they have developed, a mechanism is provided whereby the desired result is obtained by allowing the presidential candidate who has received the largest number of votes in the national election to select the electors in the state in which no electors associated with the winning slate have been elected. The full text of the compact is available at www.lwv.org.



Current Status of the National Popular Vote Compact

Since passage of the National Popular Vote Compact is accomplished on a state-by-state basis, its status is fluid. As of September 1, 2008, the legislation necessary to activate the compact has been signed into law in four states: Maryland, New Jersey, Hawaii and Illinois, for a total of 50 of the 270 electoral votes required to activate the NPV Compact. NPV Compact bills have been introduced in 15 other states, where some have passed committee and others have passed one house.

Carol Mellor (NY) is a member of the LWVUS NPV Compact Study Committee.

*Portions of this background paper are from the LWVUS Impact on Issues, 2006-2008

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Early Voting



ISSUES WITH EARLY VOTING BY MAIL / NO EXCUSE ABSENTEE BALLOTS:

1. More open to coercion practices; tend to target people who are elderly, infirm, low-income, non-English-speaking. Absentee ballots do not:
 - Assure the privacy of the secret ballot and protection against coerced voting.
 - Verify that only duly registered voters cast ballots.
 - Safeguard ballots against loss or alteration.
 - Assure their prompt counting.
 - Foster the communal aspect of citizens voting together.
2. Differential Voting: early voters do not have late information that could change their vote.
3. Undermining of voting as a communal act; little indication that early voting increases turnout; some indication that it decreases turnout.

Possible safeguards:

- New computer software can be used to match signatures on absentee ballots with registration records and flag those that raise concerns.
- States could require that every voter enclose a fingerprint or photocopy of some form of identification, not necessarily a photo ID.
- States should hire independent investigators to interview a sample of voters about potential coercion or intimidation.



STAY TUNED!!

Membership 2008-2009 Join & Make a Difference

Name: _____

Telephone: _____

Address: _____

Email: _____

- ___ Individual Membership \$50/year
- ___ Household Membership \$75/year
- ___ Student Membership \$15/year
- ___ Contribution in support of my local League
- ___ Please send me more information

Mail to: League of Women Voters of Albany County
PO Box 611 Slingerlands, NY 12159

Or Contact: Carol Webster (439-1491)

Great Holiday Gift!

League Calendar

<u>WHEN</u>	<u>WHAT</u>	<u>WHERE</u>	<u>MORE INFO</u>
2008			
December 2nd December 3 rd	LWVNYS Trip to the UN Board Meeting and Holiday Gathering	Home of Carol Webster	
December 10	Holiday Luncheon Speaker: Mike McNulty	Normanside County Club	see page 1
2009			
January 6 January 12	Board Meeting LWVAC Meeting National Popular Vote Consensus Mtg	Location TBA Bethlehem Public Library	see pages 4-7
February 3 February 9 February 24th	Board Meeting Legislative Reception Souper Supper: Greening Albany Co.	Location TBA Alb. Co Court House Bethlehem Public Library	
March 3 March 26	Board Meeting Souper Supper: Gun Violence	Location TBA Bethlehem Public Library	
April 7 April 28th	Board Meeting Super Supper: Legislative Update	Location TBA Bethlehem Library	
May 5 May 15-17 May Date TBD	Board Meeting LWVNYS Convention Annual Meeting	Location TBA Syracuse	

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