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Dear Friends within the League of Women Voters,

My name is Rob Richie. Since 1992, I have been the executive director of FairVote, formerly the Center for Voting and Democracy. As a member of the League of Women Voters, one of my job's great pleasures has been to work with other League members across the nation on our shared vision of a democracy based on respect for every vote and every voice. I've spoken at national and state League conferences and at many local League meetings.

I am also a co-author of Every Vote Equal, the book making the case for the National Popular Vote plan (NPV) for president, and have been involved in the planning and progress of the NPV movement since 2004. I am aware of the League's national study of NPV and of the importance of League members bringing an independent perspective to issues under study.

That said, I believe it is important for League members to debate the issue of NPV in the context of building support both for the League and for the movement to secure the League's existing position in favor of presidential elections governed by a national popular vote. As a long-time and ongoing advocate of a constitutional amendment to establish direct election of the president, I want to explain why I hope the LWVUS will join nearly all leading direct election advocates in embracing the powerful movement represented by the National Popular Vote plan along with our long-term goal of amending the Constitution.

I will address three points relating to:

- 1) The importance of coalitions to building effective electoral reform movements;
- 2) Embracing state action at the same time as supporting a constitutional amendment;
- 3) The growing urgency to change our current broken Electoral College system.

1. Working together for change coalition politics: As an experienced reformer, I try to watch out for divisive, "my way or the highway" approaches to changing a failed status quo. If we work together, I believe we will be able to replace the current Electoral College system. The current system is broken and overwhelmingly opposed by voters. Recent polls are simply breathtaking, with more than 70% of voters in a diverse range of states expressing their support for guaranteeing that the national popular vote winner is elected president.

Our real opportunity to win reform helps explain why so many direct election advocates have rallied behind the National Popular Vote plan. Common Cause was an early backer and has taken the lead in states like Massachusetts and Vermont. The NAACP went through a careful process of review and voted to endorse both NPV and direct election at its convention last year. Other national endorsers include Public Citizen, The National Latino Congreso, The National Black Caucus of State Legislators, The Asian American Action Fund, The New York Times, columnists E.J. Dionne and Hendrik Hertzberg and former Congressional sponsors of direct election like Sen. Birch Bayh (D-IN), Rep. John Anderson (R-IL) and Rep. Tom Campbell (R-CA).

It's been only three years since NPV was unveiled at a news conference with Senator Bayh, Congressman Anderson and now-Congresswoman Chellie Pingree, then head of Common Cause. Since then NPV has been endorsed by more than 1,200 state legislators, been passed by 23 state legislative chambers and become law in four states representing a fifth of the electoral votes necessary for direct elections to govern future presidential elections. Several more states are advancing it as I write, with increasingly bipartisan support.

Meanwhile, there is virtual silence in Congress. There is one Senate constitutional amendment for direct election of the president, and its lone sponsor (Sen. Bill Nelson of Florida) is a public advocate of NPV. There is also one House constitutional amendment by Rep. Gene Green, also without co-sponsors. The last Congress was no different, with the total number of amendment sponsors never arising above single digits.

In contrast to that silence, working for NPV is exciting. Debate on NPV in legislatures is focused nearly entirely on the basic merits of the current system or direct election of the president. By joining past direct election amendment allies like Common Cause and Birch Bayh, League members could lead the debate on NPV in their states and work with the more than 1,200 state legislators from both major parties who have endorsed it.

As an example of how coalition-building and context are important factors when deliberating NPV, consider the looming opportunity to win DC Vote's proposal to provide Washington, D.C. with a voting Member in the U.S. House. The LWVUS, Common Cause and FairVote are among an impressive coalition of groups backing this plan, which is now up for a vote in the U.S. Senate and, if victorious there, likely to move quickly into law.

Yet several leading law professors predict the DC Vote proposal will be declared unconstitutional. As an unabashed advocate of voting representation in Congress for the District, however, FairVote has chosen to side with the law professors who believe it is constitutional. We also are going with the movement for change where it exists not ignoring detractors¹ concerns, but rather seizing a vehicle that represents a path to correct a significant injustice.

Those who today might say ³D.C. statehood or nothing² would effectively be calling for no action because there is no energy for statehood. As House majority leader Steny Hoyer wrote in the Washington Post on February 22, ³I can't predict how the legal system will sort out these arguments. But that's why our system embodies a division of labor between the courts and the Congress. Right now, it's our job to stake our case on principle.² The LWVUS was right to make a similar calculation and support DC Vote even if one cannot be sure of its legality and I believe the same argument connects NPV to winning elections where every vote is equal.

2. The false choice between Constitutional amendments vs. state action: One area of apparent misunderstanding in the debate over the National Popular Vote plan is that ³the right way² to change presidential elections is via a constitutional amendment. But which is more in keeping with the spirit of the Constitution: to take action within it or to change it? Was it ³wrong² for advocates of women's suffrage to seek voting rights for women in states rather than wait until changing the Constitution? Of course not.

Even leading defenders of the current Electoral College system grant that the NPV plan is constitutional. Given that NPV is constitutional and given that state legislators under the Constitution are supposed to act to allocate electoral votes in a way that represents the interests of their voters, we should not allow legislators to avoid their responsibility and say ³no, we'll just accept the current system and wait until Congress pursues a constitutional amendment.

The current Electoral College system was established by statutes in 48 states that award all electoral votes to the popular vote winner of that state. It is not ³more constitutional² than NPV; it's simply the status quo. Our founders did not anticipate winner-take-all rules. The winner-take-all rule became the norm by the 1830s due to parochial calculations that the best way to help favored candidates was to give them as many electoral votes as possible. It was imperative for partisans to adopt winner-take-rules in their states once done by partisans elsewhere.

NPV is based on the fact that states are supposed to debate how to allocate electoral votes. During the framers¹ lifetime they regularly changed allocation rules. The fact that few state legislators did so in recent decades was a classic case of institutional inertia, not ³respect for the Constitution.² Indeed, it showed lack of respect for the Constitution because legislators were sitting on their hands instead

of trying to fix a broken system. Any suggestion that ³changing the Constitution is the only way² is based on a false belief that there is only one path to reform and that the current system is ³more constitutional² than other allocation rules.

Finally, one reason that most direct election advocates have united behind NPV is precisely because it is not a constitutional amendment. A constitutional amendment needs to ³get it right² in all its details because it is so hard to correct your mistakes. There are serious issues to resolve about the nature of an amendment. One reason that a ³support only an amendment² position would be a vote for inaction is there is no consensus on what the amendment should be. That conversation needs to happen, but it won't without a win for NPV or least more advances.

3. The League's voice in working to fix our broken system: The League was the leading voice for direct election of the president for many years, but its neutrality on NPV has effectively silenced it. NPV represents an opportunity for the LWVUS to act and speak when the current Electoral College system is more of an affront to basic democratic values than ever before.

More than 70% of Americans are hungry for a grassroots champion of a national popular vote for president, and the League is the natural group to step into that role. As an experiment, go to a congressional town hall meeting and ask a question along these lines: ³I'm a strong believer that it's time to get rid of the current Electoral College system and have a straight-up, one-person, one-vote election for president, with the winner being the candidate with the most votes. Do you support that position?² See what kind of reaction you get from those in the audience. I suspect you'll get real applause I certainly do when raising the issue in talks around the country.

The reason that the issue resonates so well with voters is that the red-blue divisions of the country are hammered into our consciousness during elections. People know about the ³safe states² that don't see much of candidates and the battleground states that get all of the attention. Voters know not all states and all voters count when electing their leader. And they don't like it. But they won't listen if your next sentence is about only focusing on a constitutional amendment.

Consider these facts about our broken system from our recent report on the 2008 presidential elections, as detailed in our reports at www.fairvote.org/president:

* Of 300 major party presidential campaign events tracked by the Washington Post between September 5 and November 4, 57% took place in four states, representing just 17% of our nation's voters: Ohio, Florida, Pennsylvania and Virginia. As tracked by CNN from Sept. 24 to November 4, 55% of all presidential campaign ads aired in those same states.

* More than 98% of all campaign events and more than 98% of all campaign spending in the campaign's peak season took place in only 15 states representing 36.6% of the nation's eligible voter population, effectively sidelining two-thirds of all Americans.

* Voter turnout in 2008 in those 15 contested states was 67%, while turnout in the remaining states was 61%. Voter turnout declined in more than a third of states despite the public's high level of interest in the nation's first fully open-seat presidential election in half a century. In 2004, young eligible voters under 30 were more than a third more likely to vote in the 10 closest states than in the rest of the nation

Furthermore, consider that George Bush's campaign for re-election one with the largest campaign war chest in history to that point never polled a single person who didn't live in one of 18 potential battleground states for the final 30 months of the campaign. It never did a national poll nor a poll in 32 states and the District of Columbia. The campaign knew that its tactics and message would never change based on what any of these Americans said. They were simply irrelevant.

So what now? I'm not asking you to avoid hard questions about NPV. Those questions should be addressed, but I trust you will look hard at the detailed information available that addresses those

questions. I would ask you to consider that you, the members of the League, are the ones who will determine the future of the League's position on this critically important issue.

More specifically, as you address the consensus questions, you will see that they can be ambiguous and get into tangential issues. I support a constitutional amendment and NPV. I support more uniform voting procedure and NPV. These positions are not mutually exclusive, although the form of the questions may imply they are. League members have suggested that leagues use part of the 150-word comment section to report the majority position and clarify the consensus results.

Whatever you and fellow League members decide, I hope to have opportunities to join with you in working for electoral reforms that improve representation, improve access to the polls and engage voters in your city, your state and in our nation in the future. Certainly if you have any questions about our reports on presidential elections and our analysis of the National Popular Vote plan, I hope you will contact me at rr@fairvote.org or (301) 270-4616.

Sincerely yours,

Rob Richie
Executive Director