

Testimony in Favor of the National Popular Vote Bill (HB 3475, SB680)

Rules Committee
Oregon House of Representatives
April 15, 2015

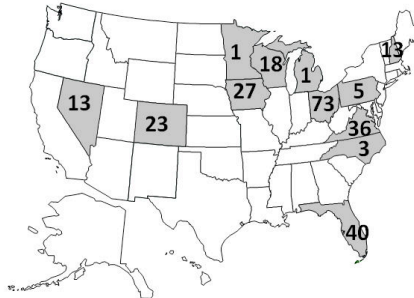
The National Popular Vote bill (HB 3475, SB680) would guarantee the Presidency to the candidate who receives the most popular votes in all 50 states and the District of Columbia.

The National Popular Vote bill is an interstate compact that has already been enacted into law by 11 jurisdictions including four small jurisdictions (Rhode Island, Vermont, Hawaii, and the District of Columbia), three medium-size states (Maryland, Massachusetts, and Washington state), and four big states (New Jersey, Illinois, New York, and California). The bill has passed a total of 33 legislative chambers in 22 states—most recently by a bipartisan 28–18 vote in the Oklahoma Senate, a 57–4 bipartisan vote in the New York Senate, and a bipartisan 102–33 vote in NY Assembly (where the bill was endorsed by the Conservative Party of New York as well as the Working Families Party). The bill has passed at least one legislative chamber in 12 other states (AR, CO, CT, DE, ME, MI, NV, NM, NY, NC, OR, RI), including the Oregon House of Representatives in 2009 and 2013. The bill has been endorsed by 2,124 state legislators.

Under the National Popular Vote bill, all the electoral votes from the enacting states 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 by states possessing a majority of the electoral votes—that is, enough electoral votes to elect a President (270 of 538). The 11 jurisdictions that have already enacted the National Popular Vote bill possess 165 electoral votes—61% of the 270 necessary to activate it.

The shortcomings of the current system of electing the President stem from *state* winner-take-all statutes (i.e., state laws that award all of a state’s electoral votes to the candidate receiving the most popular votes in each separate state).

The most important shortcoming of the winner-take-all rule is that 38 of 50 states, including Oregon, were ignored in the 2012 general-election campaign for President. Candidates have no reason to pay any attention to the concerns of voters in states where they are comfortably ahead or hopelessly behind. As a result, only 12 closely divided “battleground” states received any of the 253 general-election campaign events in 2012 (as shown on map below). Four states received two-thirds of these 253 events (Ohio, Florida, Virginia, and Iowa). Only two western states (Nevada and Colorado) received any of these events. Only one (New Hampshire) of the 13 least populous states received any events. Only three (New Hampshire, Iowa, and Nevada) of the 25 least populous states received any events.



The bill ensures that *every* vote, in *every* state, will matter in *every* presidential election. The National Popular Vote bill ensures that a vote in Oregon will be as important as a vote in closely divided states such as Ohio, Iowa, or Nevada.

Another shortcoming of the winner-take-all rule is that it has permitted candidates to win the Presidency without winning the most popular votes nationwide in four of our 57 presidential elections—1 in 14 times. A shift of 59,393 votes in Ohio in 2004 would have elected Senator

John Kerry despite President Bush's nationwide lead of over 3,000,000 votes. A shift of 214,390 votes in 2012 would have elected Governor Romney despite President Obama's nationwide lead of almost 5,000,000 votes.

Article II, Section 1 of the U.S. Constitution gives the states exclusive control over awarding their electoral votes: "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors...." The winner-take-all rule is not in the Constitution. It was used by only three states in our nation's first election in 1789. It was never debated at the Constitutional Convention. It is not mentioned in the *Federalist Papers*. The Founding Fathers were dead for decades before the winner-take-all rule became widespread.

The National Popular Vote bill preserves the Electoral College and state control of elections.

The winner-take-all rule adversely affects governance. Sitting Presidents (whether contemplating their own re-election or the election of their preferred successor) pay inordinate attention to closely divided "battleground" states. "Closely divided "battleground" states receive over 7% more grants (and over 5% more grant dollars) than other states. A closely divided "battleground" state can expect to receive twice as many presidential disaster declarations as an uncompetitive state. The locations of Superfund enforcement actions reflect a state's battleground status. Federal exemptions from the No Child Left Behind law have been characterized as "no swing state left behind." Details may be found in the 2014 book *Presidential Pork: White House Influence over the Distribution of Federal Grants* by John Hudak of the Brookings Institution and the 2015 book *The Particularistic President: Executive Branch Politics and Political Inequality* by Douglas L. Kriner of Boston University and Andrew Reeves of Washington University in St Louis.

A survey of 800 Oregon voters conducted on December 16-17, 2008, showed 76% overall support for a national popular vote for President. Support was 82% among Democrats, 70% among Republicans, and 72% among independents. By age, support was 67% among 18-29 year olds, 68% among 30-45 year olds, 82% among 46-65 year olds, and 76% for those older than 65. By gender, support was 81% among women and 71% among men. The survey has a margin of error of plus or minus 3 1/2%.

The National Advisory Board of National Popular Vote includes former Senators Jake Garn (R-UT), Birch Bayh (D-IN), and David Durenberger (R-MN); and former Cong. John Anderson (R-IL, I), John Buchanan (R-AL), Tom Campbell (R-CA), and Tom Downey (D-NY). Other supporters include former Senator Fred Thompson (R-TN), Governor Jim Edgar (R-IL), Cong. Tom Tancredo (R-CO), Governor Howard Dean (D-VT), and House Speaker Newt Gingrich (R-GA).

Detailed answers to 131 myths concerning the National Popular Vote bill may be found in the recently published 4th edition of *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* (available for reading or downloading for free at www.Every-Vote.Equal.com or for purchase at Amazon).

Additional information is available at www.NationalPopularVote.com.

**The Only States That Received Any Attention in the 2012 General-Election Campaign
For President Were States Within 3% of the National Outcome**

The states are listed below in order of Romney's 2012 percentage—with the most Republican (red) states at the top.

The second column shows the total number of general-election campaign events for each state (out of a nationwide total of 253). As can be seen, the only states that received any campaign events and any significant ad money (third column) were the 12 states (shown in black in the middle of the table) where the outcome was between 45% and 51% Republican—that is, within 3 percentage points of Romney's nationwide percentage of 48%.

The fourth column shows donations from each state.

| Romney Percent | Campaign events | TV ad spending | Donations | State | Romney (R) | Obama (D) | R-Margin | D-Margin | R-EV | D-EV |
|----------------|-----------------|----------------|---------------|---------------|------------|------------|-----------|-----------|------|------|
| 75% | 0 | \$0 | \$11,230,092 | Utah | 740,600 | 251,813 | 488,787 | | 6 | |
| 71% | 0 | \$0 | \$2,225,204 | Wyoming | 170,962 | 69,286 | 101,676 | | 3 | |
| 67% | 0 | \$1,300 | \$7,129,393 | Oklahoma | 891,325 | 443,547 | 447,778 | | 7 | |
| 66% | 0 | \$290 | \$3,586,883 | Idaho | 420,911 | 212,787 | 208,124 | | 4 | |
| 64% | 0 | \$100 | \$1,985,666 | West Virginia | 417,584 | 238,230 | 179,354 | | 5 | |
| 62% | 0 | \$0 | \$3,296,533 | Arkansas | 647,744 | 394,409 | 253,335 | | 6 | |
| 62% | 0 | \$400 | \$6,079,673 | Kentucky | 1,087,190 | 679,370 | 407,820 | | 8 | |
| 61% | 0 | \$80 | \$6,736,196 | Alabama | 1,255,925 | 795,696 | 460,229 | | 9 | |
| 61% | 0 | \$0 | \$4,796,947 | Kansas | 692,634 | 440,726 | 251,908 | | 6 | |
| 61% | 0 | \$0 | \$3,128,691 | Nebraska | 475,064 | 302,081 | 172,983 | | 5 | |
| 60% | 0 | \$346,490 | \$844,129 | North Dakota | 188,320 | 124,966 | 63,354 | | 3 | |
| 60% | 0 | \$1,440 | \$11,967,542 | Tennessee | 1,462,330 | 960,709 | 501,621 | | 11 | |
| 59% | 0 | \$3,990 | \$7,510,687 | Louisiana | 1,152,262 | 809,141 | 343,121 | | 8 | |
| 59% | 0 | \$1,810 | \$1,267,192 | South Dakota | 210,610 | 145,039 | 65,571 | | 3 | |
| 58% | 0 | \$2,570 | \$64,044,620 | Texas | 4,569,843 | 3,308,124 | 1,261,719 | | 38 | |
| 57% | 0 | \$0 | \$2,153,869 | Alaska | 164,676 | 122,640 | 42,036 | | 3 | |
| 57% | 0 | \$0 | \$2,295,005 | Montana | 267,928 | 201,839 | 66,089 | | 3 | |
| 56% | 0 | \$0 | \$3,525,145 | Mississippi | 710,746 | 562,949 | 147,797 | | 6 | |
| 55% | 0 | \$40,350 | \$14,631,204 | Arizona | 1,233,654 | 1,025,232 | 208,422 | | 11 | |
| 55% | 0 | \$300 | \$8,210,564 | Indiana | 1,420,543 | 1,152,887 | 267,656 | | 11 | |
| 55% | 0 | \$127,560 | \$11,512,255 | Missouri | 1,482,440 | 1,223,796 | 258,644 | | 10 | |
| 55% | 0 | \$710 | \$6,686,788 | SC | 1,071,645 | 865,941 | 205,704 | | 9 | |
| 54% | 0 | \$6,020 | \$21,906,923 | Georgia | 2,078,688 | 1,773,827 | 304,861 | | 16 | |
| 51% | 3 | \$80,000,000 | \$18,658,894 | NC | 2,270,395 | 2,178,391 | 92,004 | | 15 | |
| 50% | 40 | \$175,776,780 | \$56,863,167 | Florida | 4,162,341 | 4,235,965 | | 73,624 | | 29 |
| 48% | 73 | \$148,000,000 | \$20,654,423 | Ohio | 2,661,407 | 2,827,621 | | 166,214 | | 18 |
| 48% | 36 | \$127,000,000 | \$32,428,002 | Virginia | 1,822,522 | 1,971,820 | | 149,298 | | 13 |
| 47% | 23 | \$71,000,000 | \$20,695,557 | Colorado | 1,185,050 | 1,322,998 | | 137,948 | | 9 |
| 47% | 27 | \$52,194,330 | \$4,780,400 | Iowa | 730,617 | 822,544 | | 91,927 | | 6 |
| 47% | 13 | \$55,000,000 | \$6,717,552 | Nevada | 463,567 | 531,373 | | 67,806 | | 6 |
| 47% | 13 | \$34,000,000 | \$4,389,577 | NH | 329,918 | 369,561 | | 39,643 | | 4 |
| 47% | 5 | \$31,000,000 | \$27,661,702 | Pennsylvania | 2,680,434 | 2,990,274 | | 309,840 | | 20 |
| 47% | 18 | \$40,000,000 | \$10,011,235 | Wisconsin | 1,410,966 | 1,620,985 | | 210,019 | | 10 |
| 46% | 1 | \$0 | \$11,112,922 | Minnesota | 1,320,225 | 1,546,167 | | 225,942 | | 10 |
| 45% | 1 | \$15,186,750 | \$19,917,206 | Michigan | 2,115,256 | 2,564,569 | | 449,313 | | 16 |
| 45% | 0 | \$1,162,000 | \$5,770,738 | New Mexico | 335,788 | 415,335 | | 79,547 | | 5 |
| 44% | 0 | \$460 | \$10,463,528 | Oregon | 754,175 | 970,488 | | 216,313 | | 7 |
| 42% | 0 | \$195,610 | \$3,452,126 | Maine | 292,276 | 401,306 | | 109,030 | | 4 |
| 42% | 0 | \$0 | \$23,600,404 | Washington | 1,290,670 | 1,755,396 | | 464,726 | | 12 |
| 41% | 0 | \$330 | \$18,644,901 | Connecticut | 634,892 | 905,083 | | 270,191 | | 7 |
| 41% | 0 | \$0 | \$2,141,203 | Delaware | 165,484 | 242,584 | | 77,100 | | 3 |
| 41% | 0 | \$270 | \$107,928,359 | Illinois | 2,135,216 | 3,019,512 | | 884,296 | | 20 |
| 41% | 0 | \$0 | \$24,062,220 | New Jersey | 1,478,088 | 2,122,786 | | 644,698 | | 14 |
| 38% | 0 | \$320 | \$137,804,736 | California | 4,839,958 | 7,854,285 | | 3,014,327 | | 55 |
| 38% | 0 | \$0 | \$35,927,766 | Massachusetts | 1,188,314 | 1,921,290 | | 732,976 | | 11 |
| 37% | 0 | \$1,120 | \$25,579,933 | Maryland | 971,869 | 1,677,844 | | 705,975 | | 10 |
| 36% | 0 | \$55,600 | \$76,743,682 | New York | 2,485,432 | 4,471,871 | | 1,986,439 | | 29 |
| 36% | 0 | \$0 | \$2,226,963 | Rhode Island | 157,204 | 279,677 | | 122,473 | | 4 |
| 32% | 0 | \$0 | \$2,732,572 | Vermont | 92,698 | 199,239 | | 106,541 | | 3 |
| 28% | 0 | \$0 | \$3,217,863 | Hawaii | 121,015 | 306,658 | | 185,643 | | 4 |
| 7% | 0 | \$0 | \$16,670,938 | DC | 21,381 | 267,070 | | 245,689 | | 3 |
| 48.0% | 253 | \$831,106,980 | \$937,609,770 | Total | 60,930,782 | 65,897,727 | | | 206 | 332 |

<http://www.fairvote.org/research-and-analysis/presidential-elections/2012chart>