

National Popular Vote (HB 2927)

Dr. John Koza, Chair - National Popular Vote

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

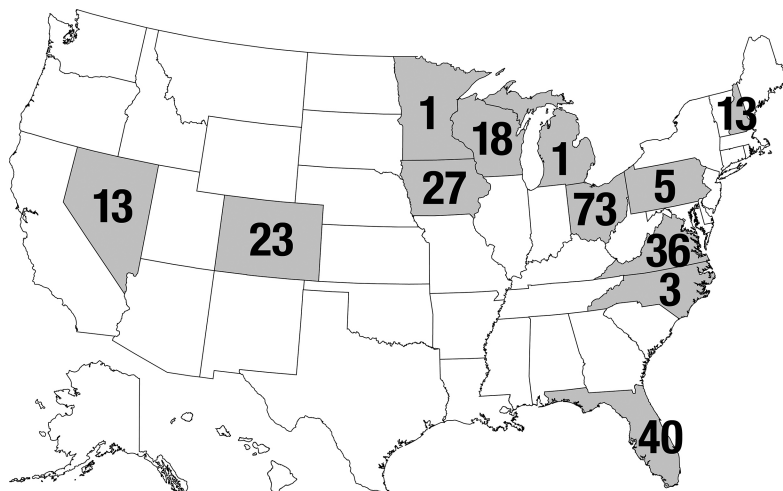
The bill would ensure that *every* vote, in *every* state, will matter in *every* presidential election.

The National Popular Vote bill has 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), and four big states (New Jersey, Illinois, New York, and California). The 11 jurisdictions that have already enacted the bill possess 165 electoral votes. The National Popular Vote compact will come into effect when approved by state possessing 270 electoral votes. Thus, 105 more electoral votes are needed.

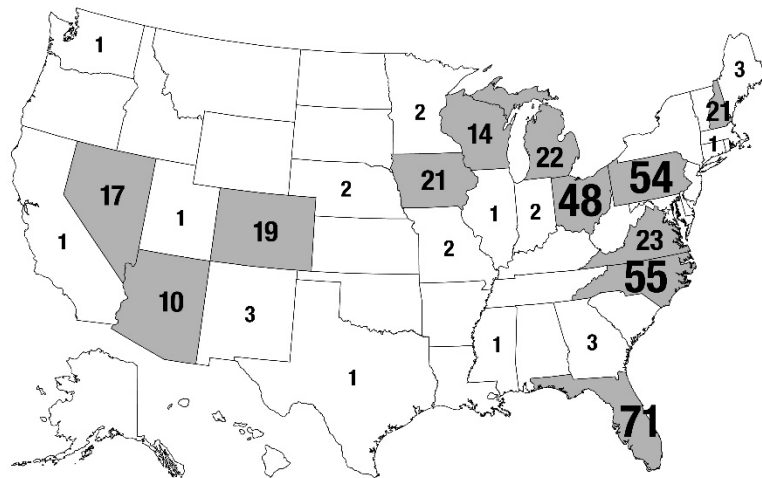
The bill has passed a total of 34 legislative chambers in 23 states—most a bipartisan 40-16 vote in the Republican Arizona House, 28-18 in the Republican Oklahoma Senate, 57-4 in the Republican New York Senate, and 37-21 in the Democratic Oregon House, and unanimously by legislative committees in Georgia and Missouri. A total of 2,955 state legislators have endorsed it, either by sponsoring it or casting a recorded vote in favor of it.

The shortcomings of the current system of electing the President stem from *state* winner-take-all *statutes*—that is, 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 were totally ignored in the 2012 general-election campaign for President. Candidates have no reason to pay any attention to states where they are comfortably ahead or hopelessly behind. In 2012, 100% of the 253 general-election campaign events were concentrated in only 12 closely divided “battleground” states. Four states (Ohio, Florida, Virginia, and Iowa) received two-thirds of the 253 events (and similar shares of campaign expenditures).



In 2016, two-thirds (273 of 399) of the general-election campaign events were in just 6 states (Florida, North Carolina, Pennsylvania, Ohio, Virginia, and Michigan). 94% of the 2016 events (375 of the 399) were in 12 states.



As former presidential candidate and Governor Scott Walker of Wisconsin said on September 2, 2015:

“The nation as a whole is not going to elect the next president. Twelve states are.”

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 five of our 58 presidential elections—about 1 in 12 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. A shift of 38,875 votes in 2016 would have elected Hilary Clinton—the candidate with a 2,864,974 lead in the national popular vote.

The winner-take-all rule adversely affects governance as well as campaigns. 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 7% more presidentially controlled grants, twice as many disaster declarations, more presidential exemptions and waivers, and numerous favorable actions from Presidents.

These impacts on governance are detailed in the 2014 book *Presidential Pork* (Hudak), the 2015 book *Presidential Swing States: Why Only Ten Matter* (Hecht and Schultz), the 2016 book *Going Red: The Two Million Voters Who Will Elect the Next President* (Morrissey), the 2011 book *The Rise of the President’s Permanent Campaign* (Doherty), and the 2015 book *The Particularistic President* (Kriner and Reeves).

Voter turn-out was 11% higher in closely divided “battleground” states in 2012 than the 38 “spectator” states.

Former White House Press Secretary Ari Fleischer has said:

“If people don’t like it, they can move from a safe state to a swing state and see their president more.”

However, people don’t have to move to a battleground state in order to make their vote count in presidential elections.

The U.S. Constitution (Article II, Section 1) gives 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 method of awarding electoral votes was not debated at the Constitutional Convention. It is mentioned in the *Federalist Papers*. It was used by only three states in the nation’s first presidential election in 1789 (and all three repealed it by 1800). The winner-take-all method of awarding electoral votes was not used by a majority of the states until the 11th presidential election (1828). It did not become predominant until the 1880 election.

The National Popular Vote bill is an interstate compact that would repeal the winner-take-all rule. The compact 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). Under the compact, 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 National Popular Vote bill preserves the Electoral College and respects the power of each state to choose the method of awarding its electoral votes.

Some people claim that the current state-by-state winner-take-all method of awarding electoral votes theoretically benefits less populous states, such as Alaska.

However, theory is very different from political reality. In the 2012 presidential election, the Alaska, Montana, Idaho, Wyoming, North Dakota, South Dakota received no general-election campaign events. Similarly, Hawaii, Vermont, Maine, Rhode Island, Delaware and DC received none. These 6 safely Republican and 6 safely Democratic states are not ignored because they are small, but because they are one-party states in presidential elections. Because of existing state “winner-take-all” laws, candidates have no reason to campaign in any state where they are certain to win or certain to lose. Candidates only pay attention to closely divided “battleground” states, with the result that only 12 states received any general-election campaign events in 2012.

The political irrelevance of the 12 smallest states under the current system becomes especially clear if you notice that these states together have the same population—12 million—as the closely divided battleground state of Ohio. The 12 small states together have 40 electoral votes—more than twice Ohio’s 18. If defenders of the current system are correct, candidates would pay a lot of attention to these 12 small states with 40 electoral votes. However, the facts are that Ohio received 73 of the entire nation’s 253 general-election campaign events in 2012, while the 12 small states received none.

Now let’s look at the one state, among the smallest 13 states, that regularly receives any general-election campaign attention. New Hampshire received 12 of the 253 general-election campaign events, because political clout comes from being a closely divided battleground state—not from being a small state. In a national popular vote for President, every vote would be equal. Under National Popular Vote, a vote in Alaska would suddenly become as important as a vote in New Hampshire. If every vote were equal, each of the 12 smallest states (including Alaska) would be likely to receive 1 general-election event—instead of just one state (New Hampshire) receiving 12 events.

Supporters include former Senators Jake Garn (R–UT), Birch Bayh (D–IN), David Durenberger (R–MN) and the late Fred Thompson (R–TN); former Cong. John Anderson (R–IL,

I), John Buchanan (R-AL), Tom Campbell (R-CA), Tom Downey (D-NY), Tom Tancredo (R-CO) and Bob Barr (R-GA); former Governors Howard Dean (D-VT) and Jim Edgar (R-IL); and former House Speaker Newt Gingrich (R-GA).