



Testimony of Ryan O'Donnell

### HOUSE BILL 6163

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 has passed 31 legislative chambers in 21 jurisdictions (AR, CA, CO, CT, DC, DE, HI, IL, ME, MD, MA, MI, NV, NJ, NM, NY, NC, OR, RI, VT, WA). In the recent 52–7 New York State Senate vote, Republicans supported the bill by a 22–5 margin (with 3 not voting) and Democrats supported it by a 30–2 margin. The bill has been endorsed by 1,922 state legislators.

The bill has been enacted by jurisdictions possessing 76 electoral votes — 28% of the 270 necessary to activate the law (HI, IL, MA, MD, NJ, Washington state, and District of Columbia).

The shortcomings of the current system stem from the winner-take-all rule (i.e., awarding all of a state's electoral votes to the candidate who receives the most popular votes in each state).

The winner-take-all rule has permitted a candidate to win the Presidency without winning the most popular votes nationwide in 4 of our 56 elections — 1 in 14 times. A shift of 60,000 votes in Ohio in 2004 would have elected Kerry despite Bush's 3.5-million lead nationwide.

Another shortcoming of the winner-take-all rule is that presidential candidates have no reason to pay attention to the concerns of voters in states where they are comfortably ahead or hopelessly behind. In 2008, candidates concentrated over two-thirds of their campaign visits and ad money in the November general election campaign in just six closely divided "battleground" states — with 98% going to 15 states. This makes two thirds of the states mere spectators.

The winner-take-all rule treats voters supporting the candidate who comes in second place in a particular state as if they supported the candidate that they voted against.

Article II, Section 1 of the U.S. Constitution gives the states exclusive control over the manner of 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 3 states in our nation's first election in 1789. Maine and Nebraska's use of the district system today is a reminder that the current method of electing the President was established by state laws, and that these state laws may be changed at any time.

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 DC). 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 bill preserves the Electoral College, while assuring that every vote is equal and that every vote will matter in every state in every presidential election.