

Testimony of Barry Fadem, President of National Popular Vote on HB 5421 before the Committee on Government Administration and Elections

March 19, 2018

Chairman Fox and Members of the Committee:

I'm here to testify in support of the National Popular Vote bill, because I believe *every* voter, in *every* state, should be relevant in *every* presidential election.

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.

Since enactment by the state of Maryland in 2007, the National Popular Vote bill has been enacted into law by 11 jurisdictions including four small jurisdictions (the District of Columbia, Rhode Island, Vermont, and Hawaii), 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 35 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 23,115 state legislators have endorsed 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. 100% of the 253 general-election campaign events in 2012 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 in the 2016 presidential race 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. This fact validates the

statement by former presidential candidate and Governor Scott Walker of Wisconsin on September 2, 2015, that

“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 over 7% more presidentially-controlled federal grants than “spectator” states. A “battleground” state can expect to receive twice as many presidential disaster declarations as a “spectator” state and twice as likely to receive exemptions from no child left behind. Superfund enforcement actions reflect a state’s battleground status.

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 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.

National Popular Vote is a non-partisan movement of Republicans, Democrats and Independents who believe that every voter, in every state should be politically relevant in every presidential election. It preserves the Electoral College and respects the power of each state’s Legislature to decide on the method of awarding its electoral votes.