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Agreement Among the States to Elect the President by National Popular Vote

To Members of the Oklahoma Legislature:

Small states are the most disadvantaged group of states under the current system of electing the President. Although small states theoretically benefit from the two extra electoral votes corresponding to their U.S. Senators, this “bonus” does not, in practice, translate into political power. The reason is that political power in presidential elections comes from being a closely divided battleground state—not from a state’s number of votes in the Electoral College.

Under the winner-take-all rule, all of a state’s electoral votes are awarded to the candidate who receives the most popular votes in each separate state. Because of this rule, candidates have no reason to poll, visit, advertise, organize, or pay attention to the concerns of states where they are comfortably ahead or hopelessly behind. Instead, candidates concentrate their attention on a small handful of “battleground” states.

Almost all of the smallest states (i.e., those with three or four electoral votes) are one-party states in terms of presidential elections. In the last six presidential elections (1988 through 2008), six of the 13 small states have almost always voted Republican (Alaska, Idaho, Montana, Wyoming, North Dakota, and South Dakota). Six others (Hawaii, Vermont, Maine, Rhode Island, Delaware, and the District of Columbia) have almost always voted Democratic.

These 12 small non-battleground states have a combined population of 11.4 million. Coincidentally, the closely divided battleground state of Ohio has 11.4 million people. **However, in the 2008 presidential election, Ohio received 62 post-convention visits (over one-fifth of the total) from the presidential candidates, whereas the 12 small non-battleground states received none.** The 11.4 million people in Ohio are very important in presidential elections, whereas the 11.4 million people in small states are politically irrelevant. This is the case despite the fact that 12 small non-battleground states have 40 electoral votes, compared to “only” 20 electoral votes for Ohio.

Oklahoma is ignored by presidential candidates not because it is small, but because the outcome of the presidential election in Oklahoma is a foregone conclusion. New Hampshire (with four electoral votes) is the one battleground state among the 13 smallest states, and it received 12 post-convention visits by presidential candidates in 2008.

Most of the states with five or six electoral votes are similarly irrelevant in presidential elections. In fact, of the 22 least populous states (i.e. those with between three and six electoral votes), only New Hampshire (with four electoral votes), New Mexico (five electoral votes), and Nevada (five electoral votes) have been battleground states in recent elections.

In 2008, the presidential and vice-presidential candidates concentrated over two-thirds of their 300 post-convention campaign visits (and ad money) in just six states, and 98% in just 15 states. As can be seen below, campaign events were held in only six of the 25 smallest states (the first half of the table), and these events were heavily concentrated in just four closely divided battleground states—New Hampshire (12), New Mexico (8), Nevada (12), and Iowa (7).

Rank	State	Electoral votes	Campaign events
51	Wyoming	3	
50	District of Columbia	3	1
49	Vermont	3	
48	North Dakota	3	
47	Alaska	3	
46	South Dakota	3	
45	Delaware	3	
44	Montana	3	
43	Rhode Island	4	
42	Hawaii	4	
41	New Hampshire	4	12
40	Maine	4	2
39	Idaho	4	
38	Nebraska	5	
37	West Virginia	5	1
36	New Mexico	5	8
35	Nevada	5	12
34	Utah	5	
33	Kansas	6	
32	Arkansas	6	
31	Mississippi	6	
30	Iowa	7	7
29	Connecticut	7	
28	Oklahoma	7	
27	Oregon	7	
26	Kentucky	8	
25	Louisiana	9	
24	South Carolina	8	
23	Alabama	9	
22	Colorado	9	20
21	Minnesota	10	2
20	Wisconsin	10	8
19	Maryland	10	
18	Missouri	11	21
17	Tennessee	11	1
16	Indiana	11	9
15	Massachusetts	12	
14	Arizona	10	
13	Washington	11	
12	Virginia	13	23
11	New Jersey	15	
10	North Carolina	15	15
9	Georgia	15	
8	Michigan	17	10
7	Ohio	20	62
6	Pennsylvania	21	40
5	Illinois	21	
4	Florida	27	46
3	New York	31	
2	Texas	34	
1	California	55	

As can be seen from the table, two-thirds of the states were ignored in the 2008 election. Because so few of the least populous states are battleground states in presidential elections, the current system actually shifts power from voters in the small and medium-small states to voters in a handful of closely divided big states. Campaign events were held in 12 of the largest jurisdictions (the second half of the table).

If the President were elected by a national popular vote, every vote would be equal throughout the United States. A national popular vote would make a vote in a small state, such as Oklahoma, as important as a vote in Ohio or New Hampshire.

The fact that the small states are disadvantaged by the current system has been long recognized by prominent officials from smaller states. In a 1979 Senate speech, Senator Henry Bellmon (R–Oklahoma) described how his views on the Electoral College had changed as a result of serving as National Campaign Director for Richard Nixon and a member of the American Bar Association’s commission studying electoral reform.

“While the consideration of the electoral college began—and I am a little embarrassed to admit this—I was convinced, as are many residents of smaller States, that the present system is a considerable advantage to less populous States such as Oklahoma. ... As the deliberations of the American Bar Association Commission proceeded and as more facts became known, I came to the realization that **the present electoral system does not give an advantage to the voters from the less populous States. Rather, it works to the disadvantage of small State voters who are largely ignored in the general election for President.**”¹ [Emphasis added]

Senator Robert E. Dole of Kansas, the Republican nominee for President in 1996 and Republican nominee for Vice President in 1976, stated:

“Many persons have the impression that the electoral college benefits those persons living in small states. I feel that this is somewhat of a misconception. Through my experience with the Republican National Committee and as a Vice Presidential candidate in 1976, it became very clear that the populous states with their large blocks of electoral votes were the crucial states. It was in these states that we focused our efforts.

“Were we to switch to a system of direct election, I think we would see a resulting change in the nature of campaigning. While urban areas will still be important campaigning centers, there will be a new emphasis given to smaller states. **Candidates will soon realize that all votes are important, and votes from small states carry the same import as votes from large states. That to me is one of the major attractions of direct election. Each vote carries equal importance.**

“Direct election would give candidates incentive to campaign in States that are perceived to be single party states.”² [Emphasis added]

¹ *Congressional Record*. July 10, 1979. Page 17748.

² *Congressional Record*. January 14, 1979. Page 309.

Currently, of course, Oklahoma receives no attention from either party because the Republican candidate has nothing to gain in Oklahoma, and the Democratic candidate has nothing to lose. If we had a national popular vote for President, Oklahoma will undoubtedly continue to deliver a majority to the Republican presidential candidate in the foreseeable future. However, a national popular vote would mean that every vote in Oklahoma would suddenly matter to both presidential candidates. It would be folly for the Democratic nominee to write off Oklahoma because a vote gained or lost in Oklahoma would be as important as any other vote in the United States. The Democratic candidate would make an effort to lose Oklahoma by a smaller margin. Similarly, it would be folly for the Republican nominee to take Oklahoma for granted because he would care about the size of his margin in the state. The result is that both presidential candidates will have to pay attention to the issues of concern to state's voters. Currently, presidential campaigns do not even poll (much less pay close attention to issues) in more than about 18 states. As the *Idaho State Journal* editorialized in 2004,

“As we enter the home stretch of the quadrennial horse race known as the presidential election, it's time to remember that this is an election for the president of the United States of America—all 50 states, not an election for the president of the Swing States of America.”

The fact that the small states are disadvantaged by the current system of electing the President has been widely recognized by officials in small states for some time. In 1966, Delaware led a group of predominantly low-population states (including North Dakota, South Dakota, Wyoming, Utah, Arkansas, Kansas, Oklahoma, and Iowa) in suing New York in the U.S. Supreme Court. These states argued that New York's use of 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 separate state) effectively disenfranchised their states.³ The Court declined to hear the case (presumably because of the well-established constitutional provision that the manner of awarding electoral votes is exclusively a state decision). Ironically, the defendant in the lawsuit (New York) is no longer an influential battleground state (as it was in the 1960s). Today, New York is politically non-competitive and suffers neglect from presidential candidates as does Oklahoma. Today, a vote in New York is equal to a vote in Oklahoma, because votes in both states are equally irrelevant in presidential elections.

Another shortcoming of the current system is that a candidate can win the Presidency without winning the most popular votes nationwide. A shift of 60,000 votes would have elected Kerry in 2004, even though President Bush was ahead by 3,500,000 votes nationwide.

Recent polls show a high level of support for a nationwide election for President in small states such as Vermont (75%), Maine (71%), New Hampshire (69%), and Rhode Island (74%). These results are consistent with the fact that over 70% of the American people have favored a nationwide election for President since the Gallup poll started asking this question in 1944. The *Washington Post*, Kaiser Family Foundation, and Harvard University poll in 2007 showed 72% support for direct nationwide election of the President.

³ Information about *State of Delaware v. The State of New York* (and links to the pleadings) may be found at http://www.nationalpopularvote.com/pages/misc/de_lawsuit.php.

These results are also similar to recent state polls in Arkansas (80%), California (70%), Colorado (68%), Connecticut (73%), Delaware (75%), Kentucky (80%), Massachusetts (73%), Maine (71%), Massachusetts (73%), Michigan (73%), Mississippi (77%), Missouri (70%), New Hampshire (69%), Nebraska (74%), Nevada (72%), New Mexico (76%), New York (79%), North Carolina (74%), Ohio (70%), Pennsylvania (78%), Rhode Island (74%), Vermont (75%), Virginia (74%), Washington (77%), and Wisconsin (71%). Details of each of these polls are available at www.NationalPopularVote.com.

The U.S. Constitution gives the states exclusive and plenary control over the manner of awarding their electoral votes. The winner-take-all rule is not in the Constitution. It was not the Founder's choice (having been used by only three states in the nation's first 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). Under the bill, all the electoral votes from the states that enact the bill would be awarded, as a bloc, 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, in identical form, by states possessing a majority of the electoral votes—that is, enough electoral votes to elect a President (270 of 538).

Since our first press conference in 2006, the National Popular Vote bill has been enacted by states possessing 50 electoral votes — 19% of the 270 necessary to bring the law into effect. The four states are Hawaii (with four electoral votes), Maryland (10), New Jersey (15), and Illinois (21). The bill has passed 22 state legislative chambers, including one house in Arkansas, Colorado, Maine, Michigan, North Carolina, and Washington, and both houses in California, Hawaii, Illinois, New Jersey, Maryland, Massachusetts, Rhode Island, and Vermont. The bill is currently endorsed by 1,246 state legislators — 460 sponsors and an additional 786 legislators who have cast recorded votes in favor of the bill.

The National Advisory Board of National Popular Vote includes former congressmen John Anderson (R–Illinois and later independent presidential candidate), John Buchanan (R–Alabama), Tom Campbell (R–California), and Tom Downey (D–New York), and former Senators Birch Bayh (D–Indiana), David Durenberger (R–Minnesota), and Jake Garn (R–Utah).

Additional information is available in the book *Every Vote Equal: A State-Based Plan for Electing the President by National Popular Vote* (available for reading or downloading for free at www.NationalPopularVote.com and to state legislators and their staffs in book form from National Popular Vote).

Yours truly,



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