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OFFICE OF ELECTIONS**

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**TESTIMONY OF THE  
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS  
TO THE HOUSE COMMITTEE ON JUDICIARY**

**ON SENATE BILL NO. 2898**

**RELATING TO AGREEMENT AMONG THE STATES TO ELECT  
THE PRESIDENT BY NATIONAL POPULAR VOTE**

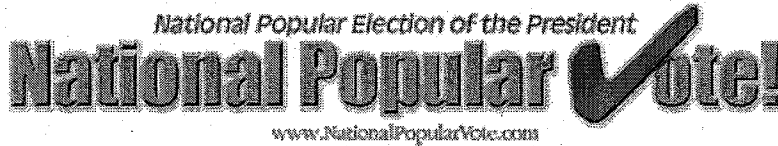
February 6, 2008

Chair Taniguchi and members of the Senate Committee on Judiciary and Labor, thank you for the opportunity to testify on Senate Bill No. 2898. The purpose of this bill is to allow states to determine the winner of a presidential election by "national popular vote".

The Office of Elections knows the contents of this bill and believes this bill presents a policy issue for the Legislature to resolve in its sound judgment. The Office of Elections remains available to provide, on request, any technical assistance arising from this bill. Please let us know if this office can be of assistance to you.

Respectfully Submitted

By Kevin Cronin



February 5, 2008

**SB2168 and SB2898—Relating to the Agreement Among the States to Elect the President by National Popular Vote**

The National Popular Vote bill (SB2168 and SB2898) would guarantee the Presidency to the candidate who receives the most popular votes in all 50 states (and the District of Columbia).

In less than two years, the National Popular Vote bill has been enacted into law in Maryland and New Jersey. The bill is on the Governor's desk in Illinois. The bill has passed 13 legislative houses (one house in Arkansas, Colorado, and North Carolina and both houses in California, Hawaii, Illinois, New Jersey, and Maryland).

The bill is currently endorsed by 801 state legislators—419 sponsors (in 47 states) and an additional 382 legislators who have cast recorded votes in favor of the bill.

Hawaii currently uses the winner-take-all rule that awards all of the state's electoral votes to the presidential candidate who receives the most popular votes in the state.

Under the winner-take-all rule, candidates have no reason to poll, visit, advertise, organize, campaign, or worry about the issues of concerns to voters of states that they cannot possibly win or lose. Voters in two thirds of the states are effectively disenfranchised in presidential elections because candidates concentrate their attention on a small handful of closely divided "battleground" states. In 2004, candidates concentrated over two-thirds of their money and campaign visits in just six states; over 80% in nine states; and 99% of the money in just 16 states.

Twelve of nation's 13 smallest states are almost totally ignored in presidential elections because they are politically non-competitive in presidential elections. Idaho, Montana, Wyoming, North Dakota, South Dakota, and Alaska regularly vote Republican, whereas Rhode Island, Delaware, Hawaii, Vermont, Maine, and DC regularly vote Democratic. These 12 small non-competitive states together contain 11 million people. Because of the two electoral-vote bonus that each state receives, these 12 states have 40 electoral votes. However, the two-vote bonus is an entirely illusory advantage. Ohio has 11 million people and has "only" 20 electoral votes. As we all know, the 11 million people in Ohio are the center of attention in presidential campaigns,

while the 11 million people in the 12 non-competitive small states are irrelevant. Political clout comes from being a battleground state—not from the two-vote bonus. Nationwide election of the President would make the each voter in Hawaii as important as each voter in Ohio.

Another shortcoming of the winner-take-all rule is that a candidate can win the Presidency without winning the most popular votes nationwide. A shift of a small number of votes in one or two states would have elected the second-place candidate in five of the last 12 presidential elections. For example, a shift of 60,000 votes would have elected Kerry in 2004, even though President Bush was ahead by 3,500,000 votes nationwide.

The Founding Fathers gave the states exclusive and plenary control over the manner of awarding of their electoral votes. The winner-take-all rule is not in the U.S. Constitution. It was used by only 3 states in the nation's first presidential election. Maine (since 1969) and Nebraska (since 1992) award electoral votes by congressional districts—a reminder that a federal constitutional amendment is not required to change the way the President is elected.

The National Popular Vote bill would take effect only when enacted, in identical form, by states possessing a majority of the electoral votes—that is, enough electoral votes (270 of 538) to elect a President. When the bill is enacted in a group of states possessing 270 or more electoral votes, all of the electoral votes from those states would be awarded, as a bloc, to the presidential candidate who receives the most popular votes in all 50 states (and DC).

The bill has the additional advantage, in a serious three-way race, of guaranteeing an Electoral College majority to the candidate receiving the most popular votes in all 50 states (and DC)—thereby avoiding throwing the presidential election into the U.S. House and Senate.

The bill has been endorsed by the *New York Times*, *Chicago Sun Times*, *Minneapolis Star-Tribune*, *Los Angeles Times*, and *Sacramento Bee*, Common Cause and Fair Vote.

70% of the public has long supported nationwide election of the president.

The National Advisory Board of National Popular Vote includes former congressmen John Anderson (R-Illinois and later independent presidential candidate), John Buchanan (R-Alabama—the first Republican elected to represent Birmingham), 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* and at [www.NationalPopularVote.com](http://www.NationalPopularVote.com).



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Written Testimony of Rob Richie, Executive Director  
On Behalf of Hawaii's SB2168 and SB2898, February 4, 2008

Thank you very much for the opportunity to provide written testimony in support of SB2198 and SB 2898, legislation to enter Hawaii into an interstate compact designed to guarantee the election of the presidential candidate who wins the most popular votes in all 50 states and the District of Columbia.

My name is Rob Richie. Since 1992 I have been the executive director of FairVote, a nonprofit, nonpartisan group based outside Washington, D.C. that promotes voter participation and fair elections. I am co-author of *Every Vote Equal*, a book that explains the National Popular Vote plan, and our organization produced *Presidential Election Inequality*, a report detailing increasing serious problems with the current Electoral College system. I prepared this testimony with Ryan O'Donnell, my colleague who runs our Presidential Election Reform program and last year played a central role in our home state of Maryland's decision to become the first state to enter the National Popular Vote compact. New Jersey has since joined the compact, and legislation likely will be under consideration in all remaining states in 2009-2009.

I strongly support the National Popular Vote legislation. A nationwide election of the President is a goal supported by an overwhelming majority of Americans (more than 70% in 2005 polls taken in Republican-leaning and Democratic-leaning states alike, and as high as 80% in some Gallup polls in recent decades). Americans recognize that our country benefits from campaigns that reach out to everyone and everywhere—small states, big states, rural areas and urban areas alike. The current system does just the opposite. Today's elections focus exclusively on an ever-smaller club of swing states such as Florida. The system is nothing like the one-person, one-vote system we hold for every other election of import in this nation.

Hawaii does not receive the attention it deserves, as it is nearly completely ignored by both parties. Because of the current state-by-state system where only swing states matter, candidates have no reason to poll, visit, advertise, organize, campaign, or address the important concerns of the Hawaiian people. Indeed, the 2004 presidential campaign of George Bush was the richest in history -- but it didn't waste a dime in polling a single person outside of 18 potential swing states in the last two years of the campaign. All the Americans in spectator states meant absolutely nothing to the campaign because their votes were taken for granted.

Our report measures the adverse impact of the current system in many ways. Here are a few:

- The presidential and vice-presidential candidates of the major parties made 291 campaign stops in the last five weeks of the 2004 campaign. 109 were in Florida or Ohio, while a majority of states did not receive even a single visit.
- In those last five weeks of the 2004 campaign, more than \$110 million was spent on television ads about the presidential election in Ohio and Florida. Not a single presidential campaign ad aired in 25 states, and only \$388,095 was spent on ads in Hawaii.

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FairVote Board of Directors: John Anderson (Chair) ◊ Edward Hailes ◊ Cynthia Terrell ◊ William Redpath  
Nikolas Bowie ◊ Erin Bowser ◊ Cynthia Gibson ◊ Antonio Gonzalez ◊ Hendrik Hertzberg  
Jesse Jackson Jr. ◊ Malia Lazu ◊ Laura Liswood ◊ Pete Martineau ◊ Nina Moseley ◊ Clay Mulford  
Krist Novoselic ◊ Ken Ritchie ◊ Rashad Robinson ◊ Katherine Spillar ◊ David Wilner

- The ten states with the biggest declines in youth turnout over the past 30 years are all "spectator states." Young people under 30 were 36% more likely to vote in the ten closest swing states than the rest of the nation in 2004.
- A white American in 2004 was more than twice as likely as an Asian American to live in a swing state.

As you consider the National Popular Vote bill before you, you are considering a bright-line choice. On one side is a Hawaii where its people are politically relevant in the most important election we hold in America, and on the other, a Hawaii for which 2008 and future elections will be a spectator sport. On one side is a truly national campaign, where we elect the president of all fifty states, and on the other, an election decided by votes in a dozen. On one side is a campaign where all who care about presidential elections have a great incentive to get out the vote and engage the people of Hawaii and on the other, not even an incentive to air an ad. Joining with the majority of Americans in electing the president with a national popular vote is a declaration that the people of Hawaii are just as important as the people of Florida when deciding the future of our nation. Embracing the current system implies that they are somehow less important.

I want to emphasize that no way will Hawaii be taking this important step alone -- and of course nothing will change whatever you do until states representing a majority of Americans have entered into this agreement. More than 360 state legislators in 47 states have introduced the National Popular plan or agreed to sponsor it and in addition to the wins in Maryland and Jersey, it will keep moving through committees and chambers in a mix of big and small states, red and blue states.

We are fortunate that the Founding Fathers created a U.S. Constitution that gave you and state legislators like you the power to choose how the President would be elected. -- and make our elections work for your citizens. States have the right and responsibility to award their electoral votes in a manner chosen by the states themselves. The National Popular Vote bill solves a widely recognized problem. It is a common sense approach that is firmly rooted in the Constitution.

Last year our nation mourned the death of Gerald Ford. President Ford, just like other presidents of his era like Richard Nixon, Jimmy Carter and Lyndon Johnson, supported a national popular vote for president. In 1969, as minority leader in the U.S. House he rose to speak, ending with "Now, my final point is this: I believe that we ought to pass the direct method of selecting the President of the United States. If we do not, it is my honest opinion that the people will be let down."

In the end, one thing is sure. Americans want a government that listens to them, and elections in which their votes count. We all hold the principle of "one person one vote" in high regard. When it comes to the most important election our nation holds, only a national popular vote will do, for Hawaii, and for America. That is why I respectfully urge you to support this legislation.

Thank you.