

## HOW THE ELECTORAL COLLEGE WORKS:

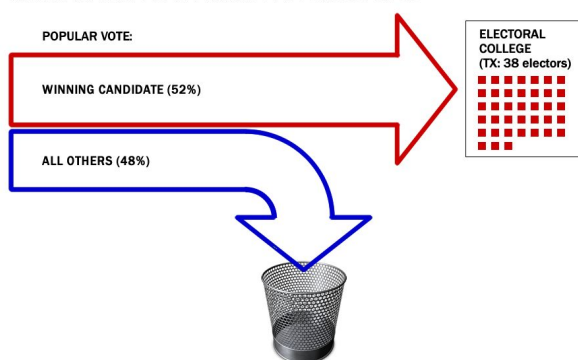
- Presidential elections are different from any other election in the US. We don't have one election to pick this one person (plus the VP); we have **51 separate elections**.
- Voting for a presidential ticket is actually choosing, in each state, a **slate of electors** who together, as the Electoral College, decide the election.
- Each state gets a number of electors equal to its number of Representatives and Senators. The District of Columbia also gets 3, for a total of **538 (Texas has 38)**. It takes 270 electoral votes to win.
- This means less-populous states like Vermont and Wyoming have **disproportionate** voting power (because every state has two Senators regardless of its size).
- The electors are party officials and grandees who pledge to vote for one party or the other. Elected officials are not allowed to be electors.
- Occasionally, an **elector goes "rogue"** and votes in a different way than she pledged to. Some states prohibit this, but there isn't much to deter such "faithless" electors.
- The states are free to decide how to appoint their electors. Most states, including Texas, have a **"winner-take-all"** system, where the candidate with the most votes gets **all** of the electors pledged to that candidate.
- In a winner-take-all state, it doesn't matter if a candidate for President wins the state by 51% or 90% — the one with the most votes gets **all** of its electors.
- Some states are considered "safe" for one party, which then takes it for granted during the campaign. In recent times we've called safe Democratic states "blue" and safe Republican states "red".
- A safe winner-take-all state can be bypassed because neither candidate has anything to gain by campaigning there.
- Only a few states (like Ohio and Florida), are considered **"swing" states** — neither red nor blue; but rather "purple". These are the competitive states where campaigns focus their resources.

## HOW IT FAILS:

- This system allows a candidate to win with a majority of Electoral College votes (i.e. 270 or more) while finishing second in the popular vote.
- This has **happened 4-5 times** in our history: 1876, 1888, 1960 (depending on how you slice it)\*, 2000, and 2016.
- **1824 was also atypical:** No candidate got a majority of the Electoral College, so the House of Representatives had to decide. They chose John Quincy Adams over Andrew Jackson, who had gotten more popular votes and electors (but not a majority of either).
- **How can this happen?** Suppose a Republican wins all the red states by 90% or more, but loses all the blue states and swing states by narrow margins. He will surely lose in the Electoral College, since the blue states and swing states control more than 270 electors. But he'll win the popular vote.
- Candidates have little or no incentive to campaign in states that are either very safe for them or are lost causes (i.e. safe for the other side).
- This system effectively disenfranchises the losing side in every state, since they'll have no representation among the electors their state appoints.
- This winner-take-all system is contrary to the **"one person, one vote"** principle.

\* See Sean Trende, "[Did JFK Lose the Popular Vote?](#)", Real Clear Politics, Oct. 19, 2012.

### WINNER-TAKE-ALL EXAMPLE: TEXAS 2016



➤ **A poll by Civis Analytics found that 62% of 2016 voters support a nationwide vote for President.**

# WHAT WERE THE FOUNDING FATHERS THINKING?

- The current **winner-take-all method** of awarding electoral votes was **never debated** at the Constitutional Convention, it appears nowhere in the Constitution and was never mentioned in any of the *original* Papers.

- In an era without political parties, the Founders expected electors to **convene in their state capitals, deliberate as a group**, and choose the best-qualified candidate. But the *original* *constitutive* *document* *of* *the* *United* *States* *of* *America* *is* *not* *clear* *on* *this* *point*.

- The Electoral College system was designed when *communication* *was* *difficult* *at* *best*.

- Madison favored the popular vote but, he said, "There was one difficulty... The **right of suffrage** was much more diffusive in the Northern than the Southern States; and the latter could have no influence in the election on the score of Negroes."

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## SOLUTION: THE NATIONAL POPULAR VOTE INTERSTATE COMPACT (NPVIC)

Abolishing the Electoral College would require amending the Constitution — which is very difficult. But there's another way — an **interstate compact**. It's an agreement between the states about how electors are chosen. It would ensure that every voter has an equal say, and that the **candidate with the most votes wins**.

### THE NPVIC LETS EVERY VOTE COUNT EQUALLY.

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#### HOW THE NPVIC WORKS:

- The NPVIC obliges the states to appoint their electors according to who wins the national popular vote. Remember, every state has full control over how its electors are appointed; even if its own population votes for X, its electors would vote for Y, the national popular vote winner.
- The compact doesn't take effect as soon as the state joins, but only **when enough states have joined** to collectively represent 270 or more electors. Their combined electors will be enough to determine the election outcome.
- So far (as of December 2016), ten states and DC have joined the compact. Together they represent 165 electoral votes — **61% of the way to 270**. Just 105 more are needed.
- The signatories to the compact, in order of joining, are Maryland, New Jersey, Illinois, Hawaii, Washington, Massachusetts, the District of Columbia, Vermont, California, Rhode Island, and New York.
- Under the NPVIC, **every voter in every state** will be relevant to the outcome, instead of just those in 10-12 swing states. And Presidents won't have the electoral incentive to favor swing states over others.
- Supporters include (as of Sept. 2016) former Senators Jake Garn (R-UT), Birch Bayh (D-IN), and David Durenberger (R-MN); 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).
- In Texas, **HB 496** has been filed by Reps. Ina Minjarez and Celia Israel.

#### COUNTERING COUNTER-ARGUMENTS:

Believe it or not, some people find things to like about the current system:

**CLAIM:** The current system helps to maintain the **federal** character of the United States.

**REBUTTAL:** Every state has its own government; its own executive, legislature and judiciary; it is like a mini-USA. That's a powerful expression of federalism, and so is the Senate, where each state is equally represented, no matter how small. Don't we already have enough federalism? See also <http://bit.ly/2fCzg4s>

**CLAIM:** Without the Electoral College, candidates would ignore **rural voters**, because only the biggest states (such as New York, California and Texas) will matter in elections.

**REBUTTAL:** The main problem is not between small and large states, it's between safe and swing states. And all the big states have lots of rural as well as urban areas. About 73% of Americans don't live in New York, California and Texas. That's a lot of votes. Anyway, why should anybody's vote count more than anybody else's? See <http://bit.ly/2fBUIXv>

**CLAIM:** In close elections, **recounts** will become much more onerous and/or likely if we use a national popular vote.

**REBUTTAL:** It would be far simpler to treat all votes the same, and recounts would be less likely when we put them all into a single pool, instead of counting them in 51 separate elections. See <http://bit.ly/2go06mF>

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#### FURTHER READING:

George C. Edwards III, \_\_\_\_\_, 2nd ed., 2011.