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# Commentary

**Title:**

*"Congressional District  
Level Allocation of  
Electoral College Votes"*

**Author(s):**

Timothy Mathews  
James Boudreau  
Brett Katzman  
Jesse Schwartz

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Since the founding of our country, we have always elected our President indirectly by way of the Electoral College, as opposed to directly by way of a national popular vote.<sup>1</sup> Currently (and since the election of 1964), there are 538 Electors in the Electoral College. If a Presidential candidate gets 270 or more Electoral Votes (i.e., more than 50%), he or she is elected President.

Each state has a number of Electors equal to the number of Representatives it has in the U.S. House, plus the number of Senators it has (since every state has two Senators, the number of Electors is also equal to “its number of Representatives in the House plus two”; the District of Columbia – which has no voting members in the U.S. House or Senate – has three Electors, which is the number it would have if it were a state). Our present focus is on the manner in which states allocate these Electoral College votes.

Currently, all but two states award Electoral College votes in a “winner-take-all” manner to the candidate receiving the most popular votes in the state. The exceptions are Maine and Nebraska. In Maine (since 1972) and Nebraska (since 1992) Electoral College votes are awarded as follows – whichever candidate gets the plurality of votes in the state as a whole is awarded two Electoral Votes (equal to the number of U.S. Senators that the state has), and whichever candidate gets the plurality of votes in each Congressional District is awarded one Electoral Vote. What if *all states* used the Maine/Nebraska approach of awarding Electoral Votes based upon Congressional Districts (plus two additional votes for the overall state winner)?<sup>2</sup>

First, as astute readers of this series know,<sup>3</sup> if the election rules are changed, then campaign strategies and voter behaviors will change. This in fact provides much of the appeal that some see in switching to either a straight up national popular vote or a wholesale shift to all states using Maine/Nebraska rules for awarding Electoral Votes. Under the current system, candidates can essentially ignore voters in all but a small handful of “swing states”; similarly, voters outside of these “swing states” have much less incentive to bother voting at all. Under a national popular vote, every individual vote would matter equally (regardless of in which state the voter resides). Candidates would have an incentive to campaign across the entire country for every possible vote, and a voter’s incentive to turn out at the polls (or not) would not be influenced by the state in which the voter resides.

However, completely abandoning the Electoral College in favor of a national popular vote would require a Constitutional Amendment. Intuitively, it would seem as if having all states use Maine/Nebraska rules for allocating Electoral College votes (which could possibly be done without a Constitutional Amendment) should make the outcome of the Electoral College more closely mirror the national popular vote. After all, if this deviation from the “winner-take-all” approach within each individual state results in a different allocation of Electoral Votes, it will almost certainly make the state level allocation of Electoral Votes closer to the popular vote in the

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<sup>1</sup> For a full description of the Electoral College, see <https://www.usa.gov/electoral-college>. Whether popular vote would be a “better way” to elect the President is a topic for a different *Commentary*. Our broad opinion, informed by a famous result from Social Choice Theory known as Arrow’s Impossibility Theorem, is that there is no best election mechanism. For a discussion of why national popular vote totals within the Electoral College system might not reveal all that much, see our September 2024 Commentary, “[Presidential Elections: Electoral College versus National Popular Vote](#).”

<sup>2</sup> For a discussion of how these peculiar rules in Nebraska alone could have possibly impacted the 2024 Presidential Election, see our August 2024 Commentary, “[The Importance of Omaha to the 2024 Presidential Election](#).”

<sup>3</sup> Again, see our September 2024 Commentary, “[Presidential Elections: Electoral College versus National Popular Vote](#).”

state. This is because, even in the most lopsided jurisdictions, the losing candidate receives *some votes*. For example, looking at the results of the 2024 Presidential Election: Kamala Harris got over a quarter of the popular vote (but none of the Electoral Votes) in the solidly “red” state of [West Virginia](#), and Donald Trump got over a third of the popular vote (but none of the Electoral Votes) in the solidly “blue” state of [Maryland](#).<sup>4</sup>

It turns out that – in contrast to the current system – if all states adopted the Maine/Nebraska rules, the Electoral College Vote tally could actually further deviate from the national popular vote. One way to see this point is to look back at past Presidential Election outcomes and use the cast votes in each state (and Congressional District) to compute Electoral College Vote totals if all states instead used Maine/Nebraska rules.<sup>5</sup> Table 1 provides a summary of the Presidential Elections from 2024 back to 1952.<sup>6</sup>

Looking at Table 1, the columns for “Popular vote %” report the percentage of popular vote for the Republican and Democrat candidates (a Third Party candidate is only included in years in which such a candidate got some Electoral College Votes under the actual allocation rules). The columns for “actual ‘election night’ EVs” report the number of Electoral Votes earned by each candidate on election night based upon votes cast by individual voters and the actual rules in place for awarding Electoral College Votes.<sup>7</sup> Within these columns, the shaded cells identify the candidate that received more of the popular vote and a majority of the Electoral College Votes in each election.

A careful inspection of these results reveals that in two of these nineteen elections, a candidate failed to receive a majority of Electoral College votes even with an advantage in the popular vote. Specifically, in 2000 George W. Bush defeated Al Gore by a narrow 4 vote margin in the Electoral College, even though Gore received a greater share of the popular vote (48.4%, compared to 47.9% for Bush). In 2016 Donald Trump realized a convincing victory in the Electoral College (306 votes, compared to 232 votes for Hillary Clinton), even though Clinton got more popular votes (48.2%, compared to 46.1% for Trump).

If the exact same votes had been cast in each Presidential election, how would the outcomes have differed if all states allocated Electoral College Votes according to the Maine/Nebraska rules? The columns for “Congressional Districts won” state the number of Congressional Districts in

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<sup>4</sup> Continuing to look at the 2024 Election, in Nebraska Harris got 38.9% of the popular vote compared to Trump’s 59.3%. If the state’s Electoral Votes were winner-take-all, then Trump would have received all five Electoral Votes from the state and Harris would have received zero (i.e., 0% of the Electoral Votes). But under the Main/Nebraska rules, Harris earned one Electoral Vote (i.e., 20% of the state’s Electoral Votes, which is closer to her 38.9% popular vote share) by defeating Trump 51.3% to 46.7% in Nebraska’s 2<sup>nd</sup> Congressional District.

<sup>5</sup> The discussion which follows should NOT be interpreted as a counterfactual analysis of the outcomes that would have resulted in these elections under these alternative Electoral College Vote allocation rules. This is because, as already noted, under different election rules both candidates and voters would behave differently. Again, see our September 2024 Commentary, “[Presidential Elections: Electoral College versus National Popular Vote](#).” However, looking at these vote totals as we do here can be thought of as a “first approximation” of the possible outcomes under these different rules and also allows us to make the point that these alternate rules do not always make the Electoral College tally more in-line with the national popular vote.

<sup>6</sup> Presidential Election results by Congressional District from 1952 through 2020 have been compiled by Kiernan Park-Egan and are available at <https://sites.google.com/view/presidentialbycongressionaldis/election-results>. For 2024, Presidential Election results by Congressional District are available [here](#) and can also be accessed through the first link in the article “[The 2024 Crossover House Seats: Overall Number Remains Low with Few Harris-District Republicans](#).”

<sup>7</sup> The actual Electoral College Votes received could then differ due to “Faithless Electors” casting their Electoral College Vote for someone other than who they were “supposed to” based upon actual election results.

each election in which the candidate from each corresponding party received a plurality of individual votes.<sup>8</sup> The columns for “States won” report the number of individual states (plus the District of Columbia) in which each party candidate earned a plurality of individual votes. Under the Maine/Nebraska rules, the total number of Electoral Votes received is equal to “the number of Congressional Districts won” plus “two times the number of states won.” The columns labelled “EVs w/ Maine/Nebraska rules” report the tallies of this exercise for each election, with the shaded cells identifying the corresponding winner.

**Table 1 – Summary of Presidential Election Outcomes since 1952**

Year	Popular vote %			actual 'election night' EVs			Congressional Districts won			States won			EVs w/ Maine/Nebraska rules		
	Rep	Dem	3rd	Rep	Dem	3rd	Rep	Dem	3rd	Rep	Dem	3rd	Rep	Dem	3rd
2024	49.8	48.3	na	312	226	0	230	206	0	31	20	0	292	246	0
2020	46.8	51.3	na	232	306	0	211	225	0	25	26	0	261	277	0
2016	46.1	48.2	na	306	232	0	230	206	0	30	21	0	290	248	0
2012	47.2	51.1	na	206	332	0	226	210	0	24	27	0	274	264	0
2008	45.7	52.9	na	173	365	0	193	243	0	22	29	0	237	301	0
2004	50.7	48.3	na	286	252	0	255	181	0	31	20	0	317	221	0
2000	47.9	48.4	na	271	267	0	228	208	0	30	21	0	288	250	0
1996	40.7	49.2	na	159	379	0	155	281	0	19	32	0	193	345	0
1992	37.4	43.0	na	168	370	0	177	259	0	18	33	0	213	325	0
1988	53.4	45.7	na	426	112	0	296	140	0	40	11	0	376	162	0
1984	58.8	40.6	na	525	13	0	370	66	0	49	2	0	468	70	0
1980	50.7	41.0	na	489	49	0	307	129	0	44	7	0	395	143	0
1976	48.0	50.1	na	241	297	0	214	222	0	27	24	0	268	270	0
1972	60.7	37.5	na	521	17	0	377	59	0	49	2	0	475	63	0
1968	43.4	42.7	13.5	302	191	45	229	161	46	32	14	5	293	189	56
1964	38.5	61.1	na	52	486	0	60	371	0	6	45	0	72	461	0
1960	49.6	49.7	0.4	220	303	14	228	203	3	26	22	2	280	247	7
1956	57.4	42.0	0.3	457	74	0	322	106	2	41	7	0	404	120	2
1952	55.2	44.3	na	442	89	0	294	136	0	39	9	0	372	154	0

First observe that allocating Electoral College Votes according to the Maine/Nebraska rules would not have resulted in a different winner in the two instances in which a candidate won the election with a smaller number of popular votes than his rival. In fact, under Maine/Nebraska rules, in 2000 George W. Bush would have defeated Al Gore by an even wider margin in the Electoral College! This observation alone illustrates how – in contrast to the current system – if all states adopted the Maine/Nebraska rules, the Electoral College Vote tally could actually further deviate from the national popular vote. For the actual cast votes, George W. Bush would have

<sup>8</sup> For the purposes of this table, the District of Columbia is treated as a Congressional District, even though their elected representative is a non-voting member of the House.

also benefitted from Maine/Nebraska rules in 2004 by having his Electoral College Vote total increased from 286 to 317.

Perhaps more surprisingly, the results reveal that the Maine/Nebraska rules could possibly increase the occurrence of a candidate winning the Electoral College Vote while losing the popular vote. Under Maine/Nebraska rules, not only would this outcome still have occurred in 2000 and 2016, but it also would have occurred two other times. In 2012, Mitt Romney would have defeated Barack Obama by a tally of 274 to 264, even though Obama garnered a majority of the popular vote (51.1%, to Romney's 47.2%).<sup>9</sup> In 1960, Richard Nixon would have gotten 280 Electoral College Votes and prevailed over John F. Kennedy (and Harry Byrd), even though Kennedy got slightly more popular votes than Nixon.<sup>10</sup>

From this discussion we see, somewhat counterintuitively, that a switch from "winner-take-all" allocation of Electoral Votes at the state level to a Congressional District based approach as is used in Maine and Nebraska does not necessarily make the outcome of the Electoral College Vote align with the popular vote to a greater degree. Moreover, the tabulations above suggest that such a change could actually increase the occurrence of the Electoral College choosing a winner different from the national popular vote.

But keep in mind, if all states were to switch to Maine/Nebraska rules, the behavior of humans within the entire system would change. During each election cycle, campaigns would allocate resources differently, candidates would have different messaging, and individual voters would have different incentives to turnout.<sup>11</sup> Additionally, when Congressional District boundaries are redrawn every decade, the incentives for those drawing the boundaries to Gerrymander districts in a way which they think will benefit their party in the future are increased. After all, such tactics could now not only give a party an advantage in achieving a majority in Congress but could also help them secure the Presidency as well.

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<sup>9</sup> Others have noted that under Maine/Nebraska rules (and actual votes cast in previous elections), Romney would have defeated Obama in 2012. See: "[Fuzzy Math: Wrong Way Reforms for Allocating Electoral Votes \(Problems with the Whole Number Proportional and Congressional District Systems\)](#)," "[What if every state voted like Nebraska?](#)," and "[Mitt Romney would be president right now \(if we linked electoral votes to congressional results\)](#)."

<sup>10</sup> Additionally, Carter would have still won the 1976 election (in which he did get a majority of the popular vote), but under Maine/Nebraska rules he would have won the narrowest of Electoral College victories possible, defeating Ford 270 to 268.

<sup>11</sup> Moreover, a switch to all states using Maine/Nebraska rules could actually lead to campaigns that are even more geographically concentrated than what we currently have. Under the current system, almost all campaign resources are targeted at "swing states." But if all states used Maine/Nebraska rules, then what matters the most in the end will be the "swing districts," of which there are very few. As noted in "[Fuzzy Math: Wrong Way Reforms for Allocating Electoral Votes \(Problems with the Whole Number Proportional and Congressional District Systems\)](#)" (see Table 5 on Page 10), the number of people living in competitive Congressional Districts is much smaller than the number living in competitive states. For example, in the 2012 Presidential Election, 12.9% of the population lived in states in which the vote margin was "3% or less" while only 6.4% of the population lived in Congressional Districts in which the vote margin was within this range.