



ARE STATE “WINNER TAKE ALL” LAWS A PROBLEM WITH THE ELECTORAL COLLEGE?

Advocates for the National Popular Vote interstate compact (NPV) frequently claim that the state “Winner Take All” method of allocating electoral votes is the biggest problem with the Electoral College. According to this critique, state laws that allocate all presidential electors based on the statewide popular vote push candidates to focus only on “swing states” and allegedly disenfranchise some voters by not allocating any electors to the losing candidate.

States are not required to use the Winner Take All method. In the first several presidential elections states experimented with different methods including popular vote using Winner Take All or district-based systems, as well as legislative or gubernatorial appointment. By 1828 nearly every state was holding a popular election and most were using Winner Take All.

The main benefit of Winner Take All is that it maximizes a state’s influence in the Electoral College, but it can also cause states considered to be less competitive to receive less attention from presidential campaigns.

Alternatives to Winner Take All include: allocating electors by Congressional district (like Maine and Nebraska); proportional representation based on the statewide vote; or, a threshold system that awards electors to a second-place candidate who achieves a specified percentage of the statewide vote.

NPV is itself a Winner Take All system – it creates a giant block of electoral votes that all go to one candidate. Even if NPV did address the concerns raised by Winner Take All, it asks member states to wait years or decades, or perhaps forever, for it to go into effect and then it could be rejected by Congress or struck down by a court.

Winner Take All laws are used by most states to allocate electoral votes, but states are free to find alternative methods that still respect the voters of their state including district, proportional, and threshold methods.

KEY POINTS

- Winner Take All maximizes a state’s influence in the Electoral College, but alternatives can be adopted that respect the preferences of a state’s voters and maintain state control over elections.
- Alternatives to Winner Take All include the Congressional District method used by Maine and Nebraska, a proportional system based on the statewide vote, or other methods that reflect the will of a state’s voters.
- National Popular Vote is itself a Winner Take All system that awards every electoral vote from compacting states to the candidate deemed to have received the most votes nationally.