The Electoral College

1. What is the Electoral College?

Established in Article 2, Section 1 of the U.S. Constitution, the Electoral College is the formal body which elects the President of the United States. Each state has as many "electors" in the Electoral College as it has Representatives and Senators in the United States Congress. The District of Columbia has had three electors since the 23rd Amendment was ratified in 1961.When voters go to the polls in a Presidential election, they actually are voting for the slate of electors vowing to cast their ballots for that ticket in the Electoral College. Most states require that all electoral votes go to the candidate who receives the majority in that state.[1]

Originally, the Electoral College provided the Constitutional Convention with a compromise between the popular election of the President and Congressional selection. The 12th Amendment—ratified in 1804—changed the original process, allowing for separate ballots and contingency elections for determining the President and Vice President. A detailed history of the Electoral College is available at the Federal Election Commission website, <http://www.fec.gov/pdf/eleccoll.pdf>.

There have been other attempts to change the system, particularly after cases in which a candidate wins the popular vote, but loses in the Electoral College.[2] The closest Congress has come to amending the Electoral College since 1804 was during the 91st Congress. H.J. Res. 681 proposed the direct election of a President and Vice President, requiring a run off when no candidate received more than 40 percent of the vote. The resolution passed the House in 1969, but failed to pass the Senate.[3] More information regarding proposed changes is Office of the Federal Register's website, <http://www.archives.gov/federal_register/electoral_college/faq.html#whyelectoralcollege>.

2. How does the Electoral College work?

After the popular vote of each state is determined, the winning slate of electors meet in the state capital and cast two ballots—one for Vice President and one for President – with both individuals from different states. Very rarely have electors voted for someone other than for whom they pledged. "Faithless Electors" have never decided a Presidency.[4]

Since the mid-20th century, on January 6 at 1:00 pm before a joint session of Congress, the Vice President opens the votes from each state in alphabetical order.[5] He passes the votes to four tellers—two from the House and two from the Senate— who announce the results. House tellers include one Representative from each party and are appointed by the Speaker. At the end of the count, the Vice President then declares the name of the next President.[6]

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[1] Maine and Nebraska employ a "district system" in which two at-large electors vote for the state's popular majority and one elector votes for each congressional district's popular majority. In the November 2, 2004, election, Colorado voters rejected a "proportional system" in which electors would vote proportionally based on the state's popular vote.

[2] Four times a candidate has won the popular vote and lost the election. Andrew Jackson in 1824 (to John Quincy Adams); Samuel Tilden in 1876 (to Rutherford B. Hayes); Grover Cleveland in 1888 (to Benjamin Harrison); Al Gore in 2000 (to George W. Bush).

[3] Whitaker and Neale, *The Electoral College: An Overview and Analysis of Reform Proposals*, (CRS Report for Congress, 16 Jan. 2001), 15. For recent proposals for change see Neale, *The Electoral College: Reform Proposals in the 107th Congress*, (CRS Report for Congress, 25 Sept. 2001), 5-11 and Neale, *The Electoral College: Reform Proposals in the 108th Congress*, (CRS Report for Congress, 28 Sept. 2004), 5-7.

[4] There has been one Faithless Elector in each of the following elections: 1948, 1956, 1960, 1968, 1976, and 1988. A blank ballot was cast in 2000. The District of Columbia and 26 states "bind" their electors to vote for their promised candidate, via a number of methods including oaths and fines (Whitaker and Neale, 10).

[5] The date of the count was changed in 1957, 1985, 1989, and 1997.

[6] Sitting Vice Presidents Richard Nixon (1961), Hubert Humphrey (1969), and Al Gore (2001) all announced that they had lost their bid for the Presidency.

During the joint session, Members of Congress may object to individual electoral votes or to state returns as a whole. An objection must be declared in writing and signed by one Representative and one Senator. In the case of an objection, the joint session recesses and each chamber considers the objection separately in a session which cannot last more than two hours with each Member speaking for no more than five minutes. After each house votes on whether or not to accept the objection, the joint session reconvenes and both chambers disclose their decisions. If they agree to the objection, the votes in question are not counted. If either chamber does not agree with the objection, the votes are counted.[7]

3. What happens if the Electoral College vote is inconclusive?

In the case of an Electoral College deadlock or if no candidate receives the majority of votes, a "contingent election" is held. The election of the President goes to the House of Representatives. Each state delegation casts one vote for one of the top three contenders to determine a winner.

Not anticipating the development of a two-party system, the Framers believed that electors would cast votes for a large range of candidates from various states and that nearly every election would go to the House of Representatives for a final decision.[8] However, only two Presidential elections have been decided in the House. In 1800, members of the same campaign ticket, Thomas Jefferson and Aaron Burr, received the same number of votes in the Electoral College. The House of Representatives eventually selected Thomas Jefferson, but the election inspired the 12th Amendment reforms. In 1824, no candidate among the three leading contenders— Senator Andrew Jackson, Secretary of State John Quincy Adams, and Secretary of the Treasury William Crawford—received a majority of electoral votes. Although Jackson won the most popular votes, the House selected Adams as the winner.

For Further Reading:

"Electoral College." In *The Oxford Guide to the United States Government,* edited by Patrick, John J., et al. New York: Oxford University Press, 2001.

Federal Election Commission, "The Electoral College," http://www.fec.gov/pages/ecmenu2.htm (accessed 19 October 2004).

Milkis, Sidney M., "Electoral College." In *The Encyclopedia of the United States Congress*, vol. 2, edited by Donald C. Bacon, et al. New York: Simon & Schuster, 1995.

Neale, Thomas H. *The Electoral College: How It Works in Contemporary Presidential Elections,* CRS Report for Congress (September 28, 2004).

-----. *Election of the President and Vice President by Congress: Contingent Election,* CRS Report for Congress (January 17, 2001).

Office of the Federal Register, "U.S. Electoral College," National Archives and Records Administration, http://www.archives.gov/federal_register/electoral_college/ (accessed 19 October 2004)

[7] Thomas Neale, *The Electoral College: How it Works in Contemporary Presidential Elections*, (CRS Report for Congress, 28 Sept. 2004), 7. This process is delineated by 3 U.S.C. 15.
[8] Milkis, Sidney M., "Electoral College, " vol. 2 of *The Encyclopedia of the United States Congress*, ed. by Donald C. Bacon, et al. (New York: Simon & Schuster, 1995) 729.