



DON'T MESS WITH THE ELECTORAL COLLEGE



A handful of Trump supporters are trying to get Nebraska to change the rules for how it distributes its electoral votes. If they succeed, then Biden supporters in Maine promise to cancel them out.

Meanwhile, some Maine Democrats just rammed through the National Popular Vote Interstate Compact — their own plan to manipulate the Electoral College.

All of these schemes are short-sighted and reactionary, risking serious unintended consequences.

Each state is represented in presidential elections through the Electoral College. The power to select the president is distributed in the same proportion as legislative power in Congress. Each state gets one presidential elector for each member in its House delegation, plus two for its senators. The Constitution says that “Each state shall appoint, in such Matter as the Legislature thereof may direct, a Number of Electors...” The Constitution also allots three electors to the District of Columbia.

In other words, state legislatures decide how their states are represented. For nearly 150 years, all states have held elections to choose presidential electors — that is, the members of the Electoral College.

In early 2016, the Virginia Democratic Party nominated me to be one of its 13 presidential electors. In November, most Virginians voted for Hillary Clinton, so all 13 of us were elected. We became Virginia’s presidential electors, casting the Commonwealth’s electoral votes for Clinton.

Forty-eight states and the District of Columbia do it that way, holding one election to choose all their presidential electors. Two do it differently — Maine and Nebraska elect one presidential elector in each congressional district and the remaining two statewide.

Politically, Nebraska is reliably Republican. Maine has become reliably Democratic. But each state has one “swing” congressional district. By dividing up presidential electors, each state gets a little extra attention and its voters are arguably represented more accurately.

In the last two elections, Trump lost Maine but won Maine’s Second Congressional District, thus receiving

one of the state's electoral votes. In 2008 and 2020, Democrats lost Nebraska but, like Trump in Maine, won Nebraska's Second Congressional District and received its single electoral vote.

Predictably, some Republicans seek to curry favor with Trump by demanding that Nebraska stop splitting up its electoral votes, which would likely shift an electoral vote from tossup to Trump. But it doesn't take Sun Tzu to understand that, if Nebraska's Republican-controlled Legislature goes along with this, Maine's Democrat-controlled Legislature will likely do the same to cancel it out. Rep. Maureen Terry (D), Maine's House Majority Leader, has already promised to do just that in retaliation.

But some Maine Democrats have already surrendered the moral high ground by forcing an even worse scheme through the Maine Legislature. The National Popular Vote Interstate Compact seeks to change how states choose presidential electors. It takes effect if passed in enough states that they control 270 electoral votes, the magic majority that determines who wins. Those states, instead of heeding the will of their own voters, would choose their presidential electors based on the nationwide popular vote.

Three law professors came up with this idea after Al Gore lost in 2000. In theory, it would force the Electoral College to elect the candidate who has the most votes nationwide. One of California's presidential electors that year, John Koza, turned the concept into a campaign. Maine was the 17th state to pass Koza's bill.

Every state currently in the compact is a "blue" state, and most support comes from Democrats. Just like Republicans seeking to change the rules in Nebraska, Democrats pushing National Popular Vote are seeking a partisan advantage. I'm a lifelong Democrat. So why don't I support it?

First, it's unseemly to change election rules for no better reason than partisan advantage. That's true in Nebraska, Maine, and everywhere else.

Second, the Electoral College has built-in protections that benefit Americans regardless of political party. The state-by-state process makes it essentially impossible for a candidate to win with a small plurality or support in just one region of our vast, diverse nation. These are the same reasons that explain why most large democracies also have two-step elections at the national level.

Third, the current process has helped to incorporate minority voices into American politics. This used to

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be common knowledge. A young Sen. John F. Kennedy defended the Electoral College against a proposed constitutional amendment in 1959. A generation later, civil rights leaders like Vernon Jordan did the same thing. They recognized that the Electoral College was forcing the Democratic Party to pay more attention to the interests of Black Americans and other minorities. The same is evident today, including in Republican appeals to Hispanic voters.

Finally, the National Popular Vote Interstate Compact would lead to a constitutional crisis worse than anything experienced after the 2020 election. All three of the law professors who thought up the idea have expressed concerns about whether the compact would really work. As currently drafted, it ignores the fact that state election laws are all different, and it provides no guidance for recounts, disagreements among the states, or other possible conflicts.

The Electoral College is not perfect, but it is the system we have had for our entire history. It produced Washington, Lincoln, Obama, and, yes, Trump. But it also defeated Trump and, despite the outgoing president's tantrums, elected Biden.

The Electoral College has, on the whole, helped build a more inclusive American politics. It cannot save us from ourselves, but we're better off with it, and without partisans seeking to manipulate it for short-term gain.

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