



CAN NON-MEMBER STATES THWART THE NPV COMPACT?

The National Popular Vote interstate compact (NPV) is unique in relying on the cooperation of non-member states to properly function. Other interstate compacts rely only on member states.

Under the compact, member states must obtain official, accurate, and timely vote totals from non-member states. But each state follows its own laws, policies, and timelines for counting, reporting, and certifying election results, and is under no obligation to cooperate with NPV member states.

There are many ways non-member states could accidentally or intentionally interfere with NPV, which requires compact states to accept whatever other states report with no process to deal with disputes or uncertainty.

Non-member states might not finish counting votes before the Electoral College meets, something that might not matter to that state but could flip the NPV result in other states. In 2012, when about 415,000 votes were left off the document certifying New York's winning slate of electors.

A non-member state could also allow voters to cast separate votes for each elector or multiply each individual vote by the number of electors, dramatically inflating the reported vote count. If Oklahoma had done this in 2016, Donald Trump would have received more popular votes nationally than Hillary Clinton.

NPV relies on the full cooperation and uniform vote reporting of every state—including states that refuse to join the compact. This would lead to an electoral crisis if any state is unable or unwilling to report vote totals cast, counted, and certified in the manner assumed by NPV.

KEY POINTS

- The National Popular Vote interstate compact (NPV) relies on the full cooperation of non-member states, making it likely to cause an electoral crisis because non-member states need not cooperate.
- Member states may not be able to obtain official, accurate, complete, and timely vote totals from every non-member state, and could be forced to rely on unofficial, inaccurate, and incomplete vote totals.
- Non-member states can adopt voting and election policies that would disrupt the compact including allowing voters to cast as many votes as the state has electors and reporting that inflated vote count on the document certifying its winning electoral slate.