



Proposed reforms for the Electoral Count Act draw broad support

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A newly unveiled proposal aimed at reforming the Electoral Count Act, a widely criticized 135-year-old law governing the process of casting and counting Electoral College votes, has garnered widespread support among election experts.

The 1887 Electoral Count Act has long been lambasted by legal experts, who argue the law is poorly written, vague and antiquated.

"Imagine that there was a law on the books requiring you to travel by horse and buggy. That is literally what the Electoral Count Act is like," Rebecca Green, co-director of the election law program at the College of William & Mary, told *Here & Now*.

The proposed changes, mapped out Wednesday by a bipartisan group of senators, are aimed at ensuring a peaceful transition of power, a tradition that came under threat in 2021, when then-President Donald Trump led a pressure campaign on state and congressional lawmakers, and his own vice president, to overturn the election results.

The reforms would clarify that the vice president has a "solely ministerial" role in counting Electoral College votes as president of the Senate, and make it harder for lawmakers to challenge a state's electoral votes.

Lawmakers have warned that waiting to address the flaws in the existing law could lead to additional confusion and chaos in subsequent elections, as many fear a repeat of 2021.

"If you're not sleeping well at night about the 2024 election, I think you can sleep a lot better if this bill passes," Ned Foley, director of the election law program at The Ohio State University Moritz College of Law, told *Here & Now*.

Thus far, the proposed changes have received broad support — though some on the left say they don't go far enough.

Yuval Levin, a senior fellow at the conservative-leaning American Enterprise Institute, praised the proposal as "constructive, balanced, and very promising."

"This is a very good set of reforms," Levin wrote in an op-ed in the *National Review*. "The bulk of them are directed to avoiding a repeat of the sorts of problems we saw in 2020 — a situation in which the states all did their jobs but members of Congress, at the behest of the defeated incumbent president, moved to sow doubt about the outcome by capitalizing on the vagueness and looseness of the ECA."

Similarly, Andy Craig of the libertarian-leaning Cato Institute wrote the existing law is a "ticking time bomb and an invitation to a constitutional crisis" and called the proposed reform a "major step forward in fixing that problem."

"Between concerns that this bill would be too narrow and only make cosmetic changes at the behest of Republicans, versus prior Democratic plans that went too far and were overcomplicated, this announcement strikes a happy medium," Craig wrote.

The proposal is also getting support from other corners.

The nonpartisan organization Business for America is mobilizing the business community with a sign-on letter to support the passage of the Electoral Count Reform Act.

"The future of our republic relies upon effective election administration, public trust in the results, and the peaceful transfer of power — and so do our markets and businesses," Sarah Bonk, the founder and CEO of Business for America, said in a statement. "Our country cannot afford a constitutional crisis."

Foley, of Ohio State, noted that the timing of passing the reformed legislation is critical.

"It's to each party's advantage now behind the veil of ignorance to lock in place these procedures, because as much as people are focusing on maybe one party trying to make mischief, you know, after the 2024 elections, either party could make mischief under the current system," he said. "And so that's why it's much better to have both parties now agree to eliminate all possibility of mischief."