



Today, I write to announce my intent to join efforts on January 6 to object to the counting of electoral college votes in those states failing to follow their own election laws and procedures in the administration of the presidential election. I also call on my colleagues in Congress to not only fully investigate election improprieties, but to also study and debate measures that can be implemented to protect elections in the future.

Since November, I have been contacted by countless constituents expressing their concerns with the security and administration of this year's presidential election. I believe this issue strikes at the very heart of our national identity, because the success and longevity of our Republic relies on the fundamental idea of free and fair elections.

In the present circumstance, I believe it is my constitutional duty to raise concerns with election integrity, to not only defend the rights of my own constituents, but to also protect the legitimacy of the constitutional process provided to elect the leaders of our free nation.

Our framers designed our system of government based on the notion that centralized power gives rise to corruption and despotism. Our federal government was ingeniously divided into separate and equal branches, so that each might act as a check upon the other. Furthermore, our Constitution embodies a clear idea of federalism, where our entire system is divided into distinct authorities. Certain enumerated powers were granted to the federal government, while the rest were left to the states.

In the electoral question before our nation today, the distinction between these authorities is paramount. In the process of conducting a presidential election, states are not only responsible for appointing their electors to the Electoral College under Article II of the Constitution, but they are also tasked with creating and executing their own laws governing their state electoral process.

It has become clear following the 2020 presidential election, that certain states failed to follow their own election laws set out by their duly-elected representatives. These laws concern not only protections against fraud, but also the procedures for ensuring fundamental fairness in the counting of votes. These failures not only harm the citizens of the individual states, but given the weight of electoral votes, they also taint the integrity of our entire election process.

In most circumstances, the courts would be a remedy for such infractions. However, it is clear that the judicial branch is unwilling to correct, or even fairly hear, these grievances.

Hern for Congress
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In *Marbury v. Madison*, the case that has defined our judiciary for over two centuries, Chief Justice John Marshall famously proclaimed that “[i]t is emphatically the province and duty of the judicial department to say what the law is.” Despite numerous attempts to litigate questions regarding important constitutional and administrative issues surrounding the presidential election, it is clear that the Court has no intention of carrying out that constitutional duty defined by Chief Justice Marshall. In light of this abdication, it is clear that Congress must exercise its separate and equal authority to act as a check and balance to the failure of the other branches and other levels of government.

Under the 12th Amendment, Congress must gather for a joint meeting to count the electoral votes following each presidential election. The date of the meeting is set by statute as January 6. The Constitution requires that the President receive a majority of the appointed Electors.

Federal law not only provides the procedure for the joint session, but it also outlines the process for handling objections concerning electoral votes. If an objection is made in writing by one Representative and one Senator, each chamber must meet separately to consider the objection. Both the House and the Senate would separately debate and vote on the merits of each objection.

It is now evident that at least one Senator and one Representative will raise a formal objection to electoral college votes on January 6, meeting the statutory requirements for a debate and vote in each chamber. After thoughtful consideration, I believe it is my duty to stand with my fellow Members in raising concerns about the unlawful actions of these states and to help in their efforts to object to the counting of these certain electoral votes.

It is important to note: these actions are not unprecedented. Recent history, alone, provides examples of this exercise of congressional power. For example, Democrats in Congress objected to the certification of electoral college votes after both the 2004 and 2016 elections. During that process following the 2004 election, now Speaker Nancy Pelosi said that the objections were “democracy at work” and “fundamental to our democracy.” These objections were, too, focused on concerns with election integrity.

In today’s hyper-partisan, soundbite-driven world, my position might be wrongly interpreted as a simple attempt to support the President of my political party. This interpretation would be gravely mistaken – my decision is based on ideals that far outweigh the role of a single individual in history.

The rule of law and the sanctity of our electoral process mean far more to the future of our country than any one administration, any one party, and any one man. While I am standing by President Trump today, I am also standing for the voters of tomorrow, who deserve to one day approach their ballot box with the assurance that their electoral process is both fair and transparent.

I am not in favor of a complete federal takeover of the electoral process, as has been proposed by House Democrats this session. States must retain their rights to govern their own elections. However, it is paramount that Congress acts within our authority to show the failures of states to follow their own election laws, passed under the authority of their own constitutions.

While I know some will disagree with my action, I believe that my efforts will highlight improprieties and concerns that threaten the very process that gives a voice to those who disagree with me. I hope that Congress can bring light to the concerns of millions of Americans regarding the integrity of this year's election, and that we will also discuss and pass meaningful reforms to give voters confidence in our future elections.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Hern', written in a cursive style.

Kevin Hern
US Congress, OK-01